

David M. Betz, AICP
Director of Development
City of Powell
47 Hall Street
Powell OH 43065

RE: HorsePower Farms, 4301 Home Road

In response to the July 9, 2018 Powell BZA Meeting and in conjunction with the Conditional Use Permit published on August 27, 2018 the applicant, HorsePower Farms, LLC, submits the following response to meet the conditions of the Conditional Use Permit.

1. That approval shall be granted for the completion of Phase 1 only and that all future Phases shall come back before the Board of Zoning Appeals; and

We are submitting documentation, engineering drawings, landscape plans, and finish samples for Phase 1 of this project. Future phases will be submitted to BZA for review and approval.

2. That the applicant shall come back before the Board of Zoning Appeals at a future date for review and approval of building designs and details; and

We have submitted our architectural renderings and illustrations of building design and details for review by the BZA. We will bring material samples to the BZA meeting.

3. That the applicant shall submit building designs with no doors on the front of the storage building(s) facing Home Road; and

Our revised design features Building 1 without doors facing Home Road. At a preliminary design review meeting on November 1, 2018, staff requested that Building 1 have windows facing Home Road. These windows have been added to the buildings in the submitted materials.

4. That the applicant should submit for and receive approval of all utility plans, site engineering and grading/stormwater control plans by the City Engineer; and

We have had a preliminary meeting with engineering. Preliminary Utility plans, site engineering and grading/stormwater control plans have been submitted, final plans are being developed and will be submitted to the City of Powell Engineering department.

5. That all project plans shall be AEP compliant; and

We are in receipt of our preliminary plan approval letter dated July 11, 2018. We have submitted grading plans to AEP for review.

6. That the applicant shall come back before the Board of Zoning Appeals of a future date for review and approval of the condominium association bylaws. The bylaws shall specifically address the hours of quiet time, how the reserve will be established and managed and when the association will be in full control; and

We have submitted our Condominium Association Bylaws on November 1, 2018. Quiet hours and reserve funds are addressed in the Bylaws.

7. That the applicant shall ensure all landscaping plans continue the landscaping design along Home Rood which is currently present in the Reserve of Scioto Glen and Scioto Reserve; and

Our landscaping plan is consistent with and emulates the themes of Scioto Glen and Scioto Reserve. We have extended the "Black Horse Fence" and pedestrian path across the northern border of our property.

8. That the emergency access/exit of Friesian Lane shall be of a gated, secured entrance used by emergency personnel only;

We have eliminated the connection to Friesian Lane.

9. That the applicant shall come back before the Board of Zoning Appeals for review and approval of all signage.

We have submitted the design drawings for proposed signage. We have selected signage that is similar in nature to the signage on the South side of Auto Assets in Powell.



DRAWING SET

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<input type="checkbox"/>		check set
<input type="checkbox"/>		bid
<input type="checkbox"/>		permit
<input type="checkbox"/>		construction

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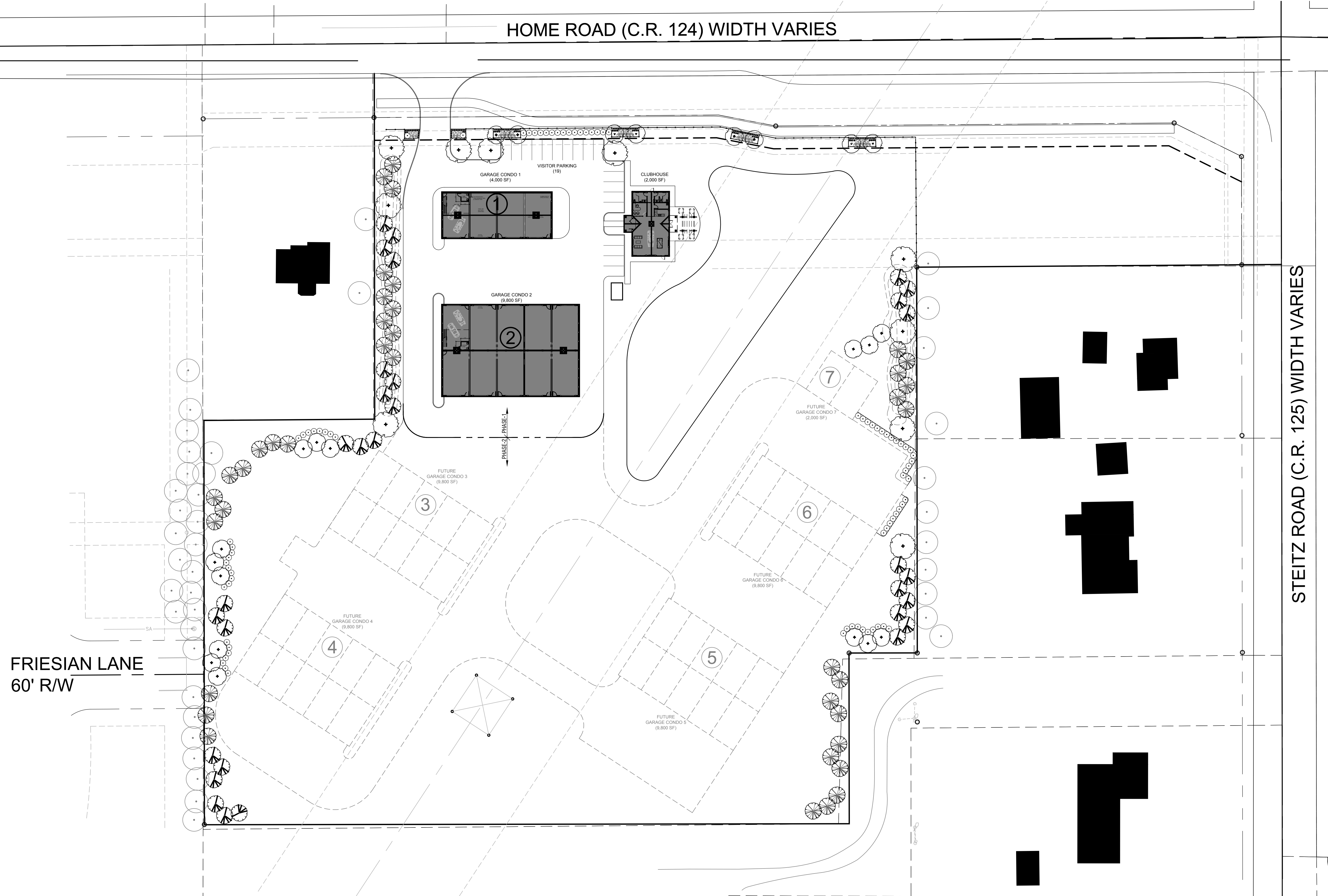
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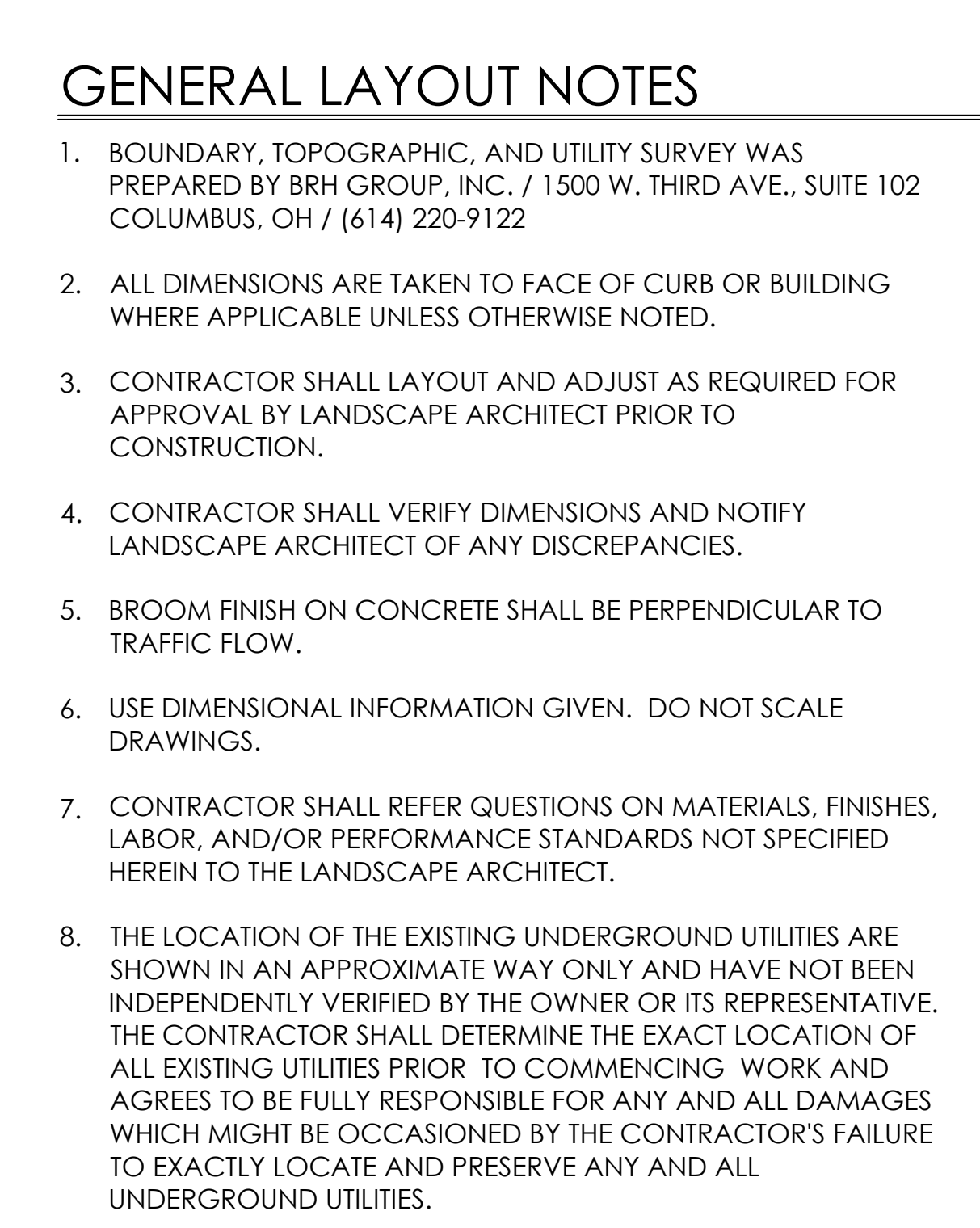
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SHEET NUMBER

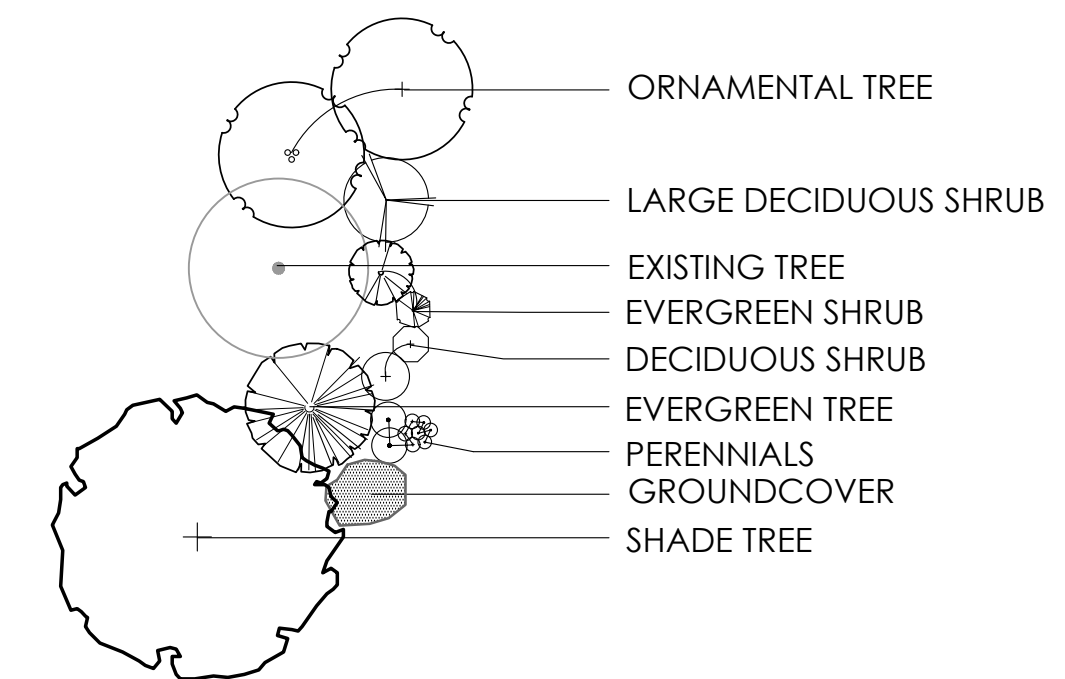
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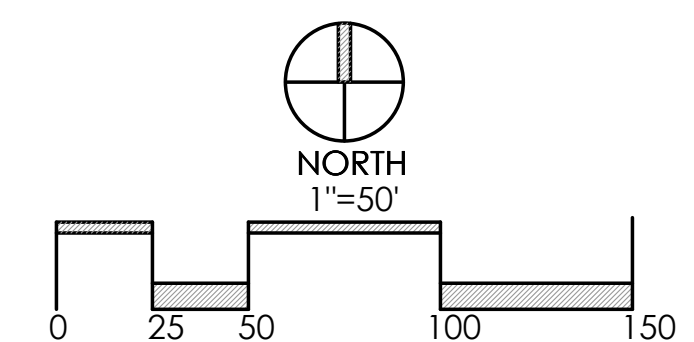
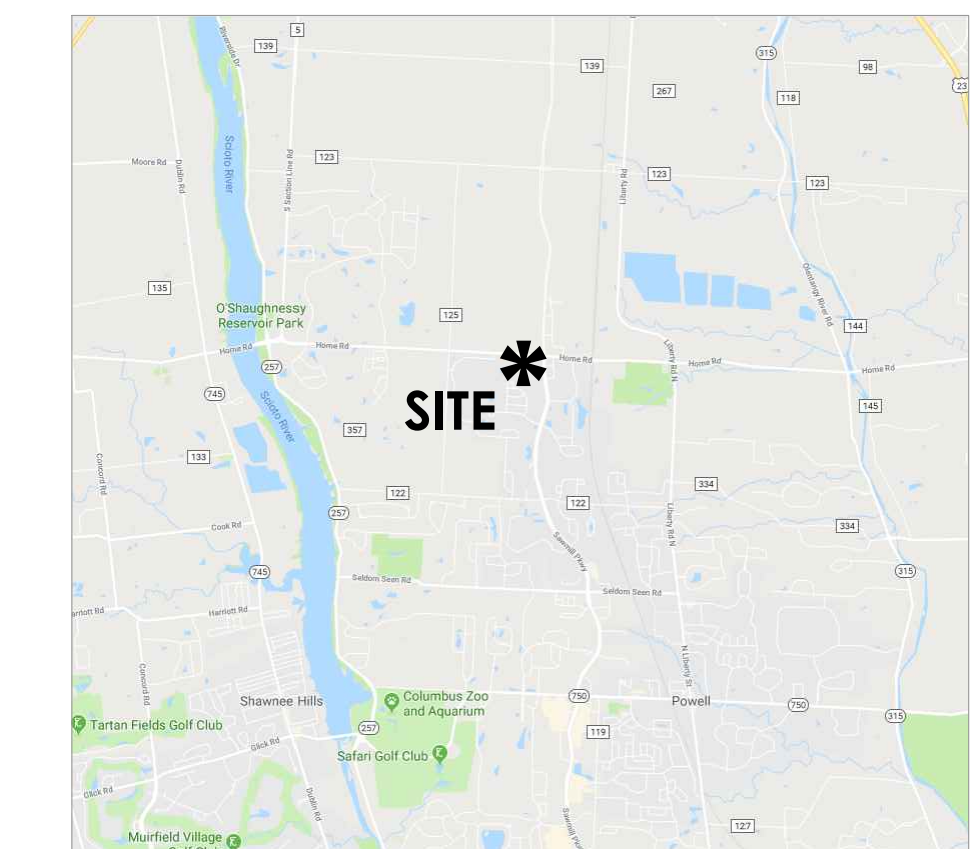
1 SITE PLAN
SCALE 1" = 40'-0"
40 20 0



SEE PLANT LIST FOR SPECIFIC PLANT SPECIES

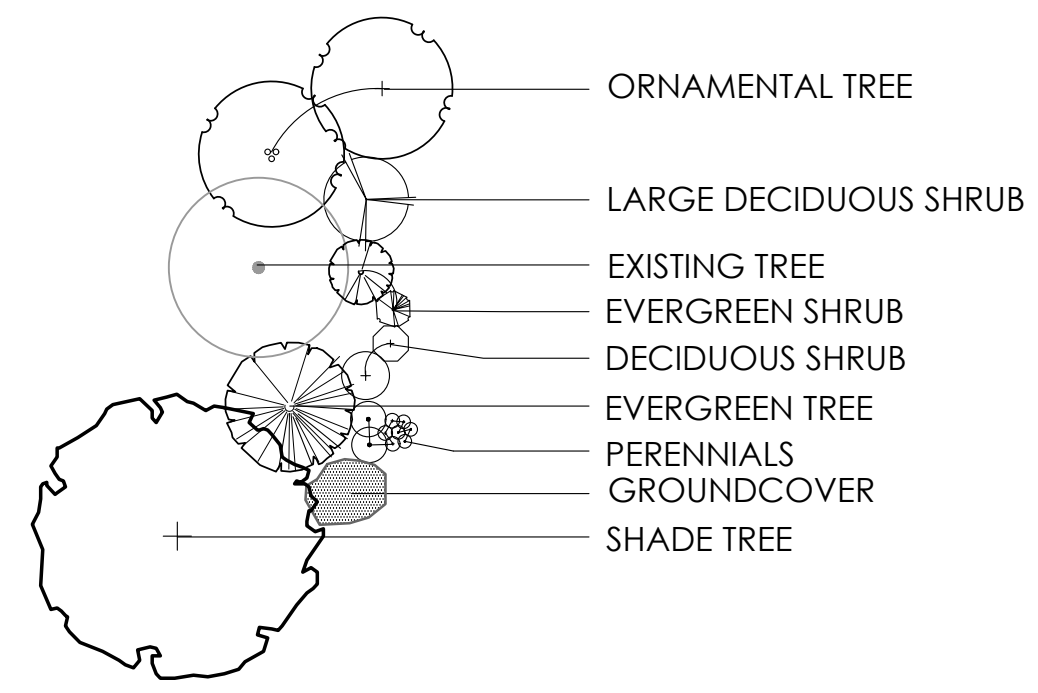


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1. ALL PLANTS SHALL MEET OR EXCEED STANDARDS SET IN THE USA STANDARD FOR NURSERY STOCK.
2. ALL PLANTING OPERATIONS SHALL ADHERE TO THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS.
3. PLANT LOCATIONS AND BEDS SHALL BE LOCATED BY CONTRACTOR AND APPROVED BY LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
4. PLANTING BEDS SHALL HAVE A MINIMUM 3" DEEP SHREDDED HARDWOOD BARK MULCH. MULCH HEDGES IN A CONTINUOUS BED.
5. ALL PLANTING BEDS TO BE TILLED TO A MINIMUM DEPTH OF 12".
6. ALL PLANTING BEDS TO BE FERTILIZED WITH 10-10-10 OR APPROVED EQUAL.
7. SODDING / SEEDING BY LANDSCAPE CONTRACTOR.
8. THE LOCATION OF THE EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES PRIOR TO COMMENCING WORK AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
9. ALL AREAS DISTURBED BY CONSTRUCTION ARE TO BE RESTORED, FINE GRADED AND SEEDED/ SODDED.
10. ALL EXISTING PLANT MATERIAL SHOWN ON THIS PLAN IS TO BE PRESERVED UNLESS SPECIFICALLY NOTED OTHERWISE.

1 LAWN AREA, PROVIDE POSITIVE DRAINAGE ACROSS ALL SURFACES.

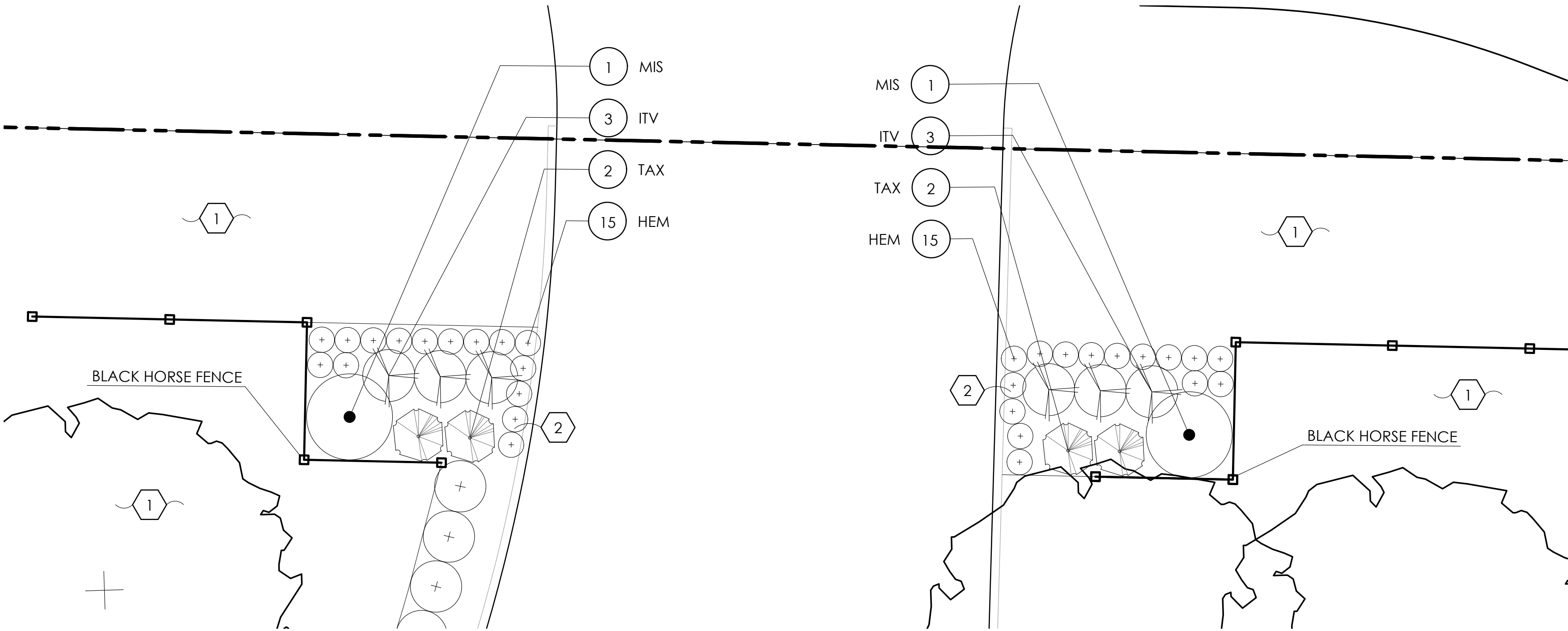
SEE PLANT LIST FOR SPECIFIC PLANT SPECIES

(CONTRACTOR RESPONSIBLE FOR ALL PLANTS SHOWN ON PLAN)

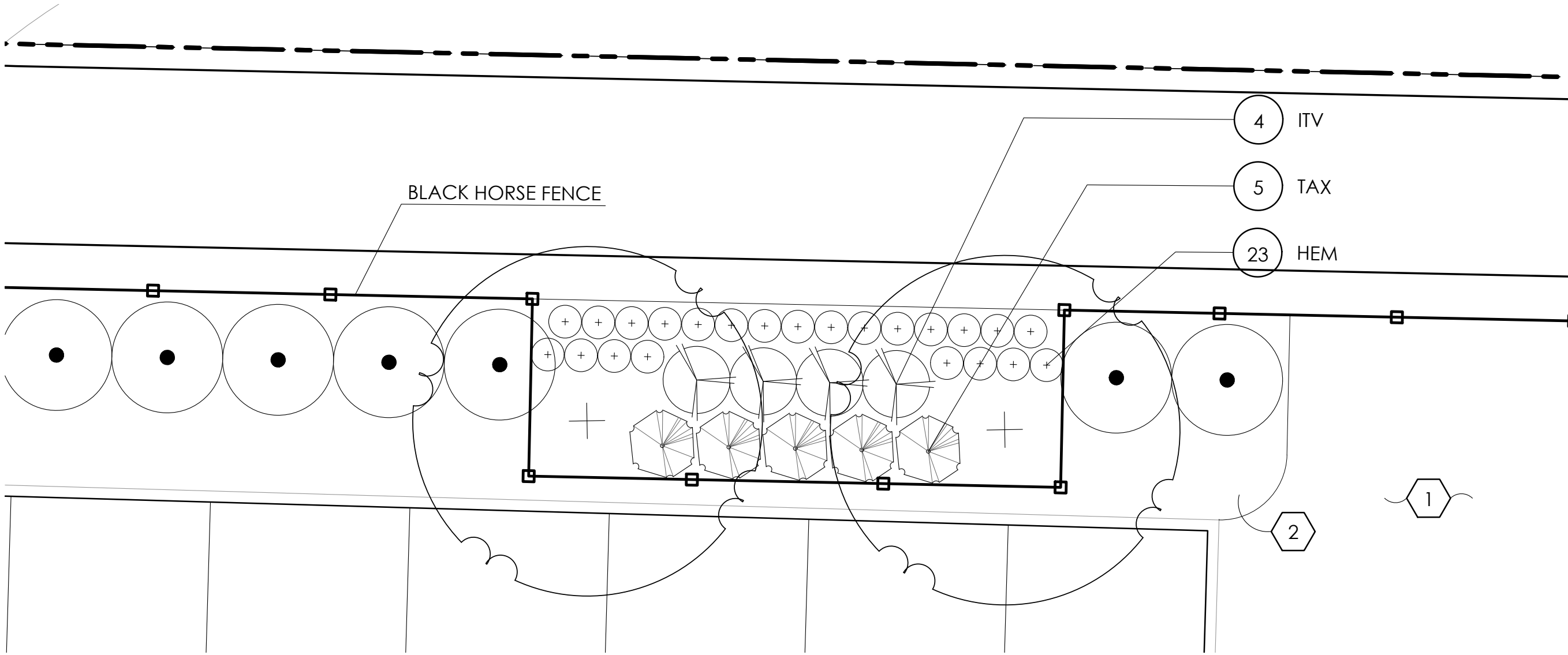
QTY	KEY	BOTANICAL NAME	COMMON NAME	SIZE	COND.	REMARKS
TREES						
12	PAB	PICEA ABIES	NORWAY SPRUCE	6'-7' HGT.	B&B	
17	PGL	PICEA GLAUCA	WHITE SPRUCE	6'-7' HGT.	B&B	
5	PLA	PLATANUS X ACERIFOLIA 'BLOODGOOD'	BLOODGOOD LONDON PLANE TREE	2" CAL.	B&B	
5	ACE	ACER X FREEMANII 'SIENNA'	SIENNA GLEN MAPLE	2" CAL.	B&B	
7	AME	AMELANCHIER x GRANDIFLORA 'AUTUMN BRILLIANCE'	AUTUMN BRILLIANCE SERVICEBERRY	6'-7' HGT.	B&B	
4	ARA	ACER RUBRUM 'ARMSTRONG'	ARMSTRONG RED MAPLE	6'-7' HGT.	B&B	
PERENNIALS/ORNAMENTAL GRASSES						
59	MIS	MISCANTHUS SINENSIS 'GRACILLIMUS'	GRACILLIMUS MAIDEN GRASS	1 GAL.	CONT.	
91	ITV	ITEA VIRGINICA 'HENRY'S GARNET'	HENRY'S GARNET SWEETSPIRE	1 GAL.	CONT.	

*NOTE: ANNUALS TO BE PLANTED BY OWNER. NOT IN INITIAL LANDSCAPE COSTS.

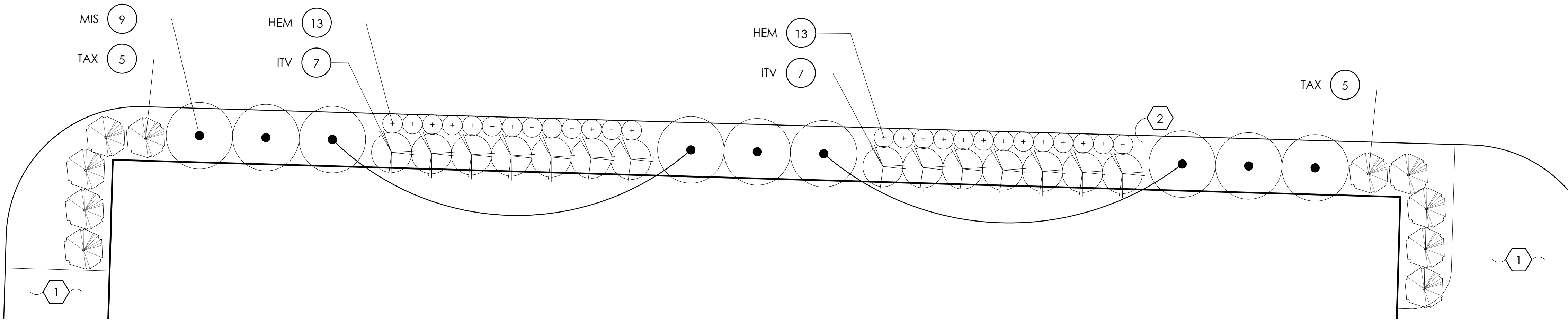
L-2	DATE	11/12/18	<p>Paris Planning & Design</p> <hr/> <p>LAND PLANNING LANDSCAPE ARCHITECTURE</p> <p>243 N. 5th Street Columbus, OH 43215</p> <p>Suite 401 www.parisplanninganddesign.com</p> <p>p (614) 487-1964</p>	<p>HORSE POWER FARM</p> <p>PREPARED FOR</p> <p>ARCHITECTURAL ALLIANCE</p> <p>49 E. THIRD AVENUE</p> <p>COLUMBUS, OH 43201</p>	<p>PHASE 1</p> <p>LANDSCAPE PLAN</p>	REVISIONS	
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1 ENTRY ENLARGEMENT PLAN
SCALE: 1"=5'



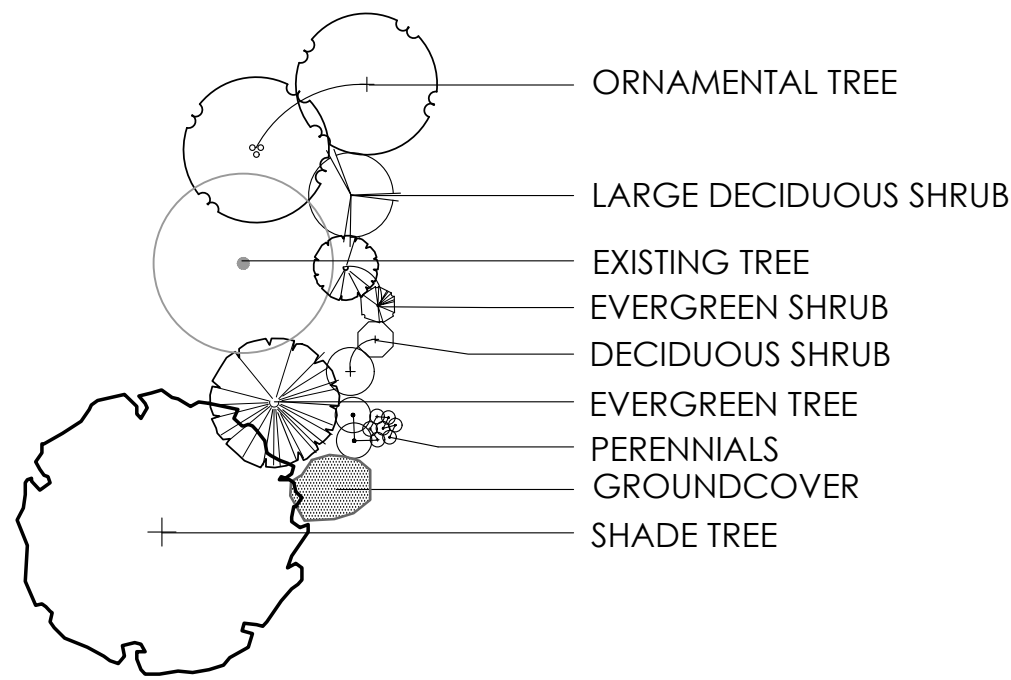
2 FENCING PLANTING PLAN (TYPICAL OF 4)
SCALE: 1"=5'



3 ENLARGEMENT PLAN
SCALE: 1"=5'

PLANT KEY TYPICALS

SEE PLANT LIST FOR SPECIFIC PLANT SPECIES



GENERAL PLANTING NOTES:

- ALL PLANTS SHALL MEET OR EXCEED STANDARDS SET IN THE USA STANDARD FOR NURSERY STOCK.
- ALL PLANTING OPERATIONS SHALL ADHERE TO THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS.
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- ALL AREAS DISTURBED BY CONSTRUCTION ARE TO BE RESTORED, FINE GRADED AND SEEDED/ SODDED.
- ALL EXISTING PLANT MATERIAL SHOWN ON THIS PLAN IS TO BE PRESERVED UNLESS SPECIFICALLY NOTED OTHERWISE.

CONSTRUCTION NOTES:

- LAWN AREA, PROVIDE POSITIVE DRAINAGE ACROSS ALL SURFACES.
- LANDSCAPE AREA, PROVIDE POSITIVE DRAINAGE ACROSS ALL SURFACES.

PLANT LIST

(CONTRACTOR RESPONSIBLE FOR ALL PLANTS SHOWN ON PLAN)

QTY	KEY	BOTANICAL NAME	COMMON NAME	SIZE	COND.	REMARKS
SHRUBS						
34	TAX	TAXUS X MEDIA 'DENSIFORMIS'	DENSE SPREADING YEW	24" HGT.	CONT.	
36	ITV	ITEA VIRGINICA 'HENRY'S GARNET'	HENRY'S GARNET SWEETSPIRE	18" HGT.	CONT.	
PERENNIALS/ORNAMENTAL GRASSES						
11	MIS	MISCANTHUS SINENSIS 'GRACILLIMUS'	GRACILLIMUS MAIDEN GRASS	1 GAL.	CONT.	
148	HEM	HEMEROCALLIS 'STELLA D'ORO'	STELLA D'ORO DAYLILY	1 GAL.	CONT.	

*NOTE: ANNUALS TO BE PLANTED BY OWNER. NOT IN INITIAL LANDSCAPE COSTS.

REVISIONS

LANDSCAPE ENLARGEMENT PLAN

HORSE POWER FARM
PREPARED FOR
ARCHITECTURAL ALLIANCE
49 E. THIRD AVENUE
COLUMBUS, OH 43201

Paris Planning & Design
LAND PLANNING • LANDSCAPE ARCHITECTURE
243 N. 5th Street
Columbus, OH 43215
P (614) 487-1944
Suite 401
www.parisplanninganddesign.com

DATE11/12/18

PROJECT18160

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HORSE POWER FARMS // GARAGE CONDOS

November 19, 2018





HORSE POWER FARMS // GARAGE CONDOS
November 19, 2018

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November 19, 2018





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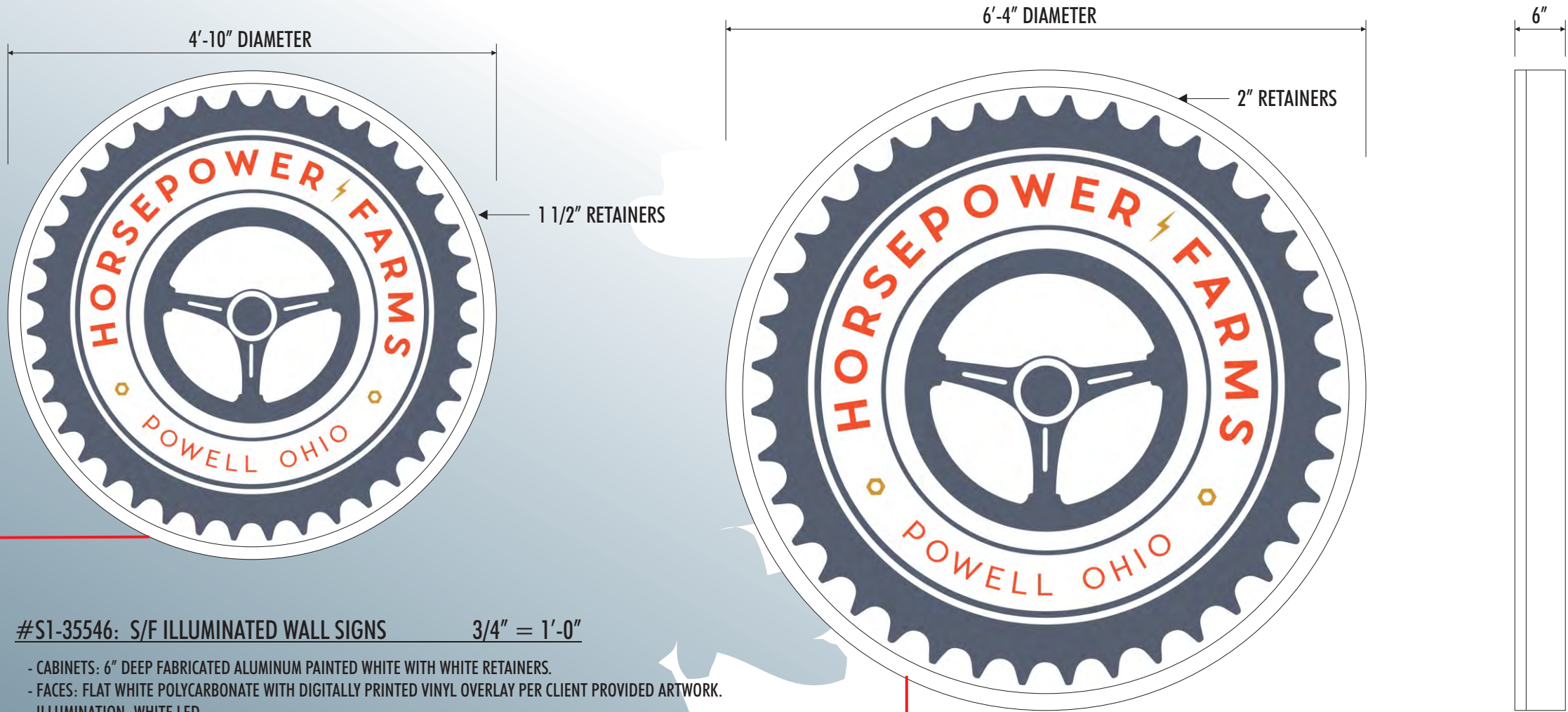
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SIDE VIEW (TYPICAL)

#S1-35546: S/F ILLUMINATED WALL SIGNS 3/4" = 1'-0"

- CABINETS: 6" DEEP FABRICATED ALUMINUM PAINTED WHITE WITH WHITE RETAINERS.
- FACES: FLAT WHITE POLYCARBONATE WITH DIGITALLY PRINTED VINYL OVERLAY PER CLIENT PROVIDED ARTWORK.
- ILLUMINATION: WHITE LED
- NOTE: VECTOR ARTWORK IS REQUIRED FROM CLIENT PRIOR TO MANUFACTURING.



SIGN LOCATIONS: NOT TO SCALE



Proudly Serving Central Ohio Since 1954
1640 Harmon Ave Columbus, Ohio, 43223
(614) 444-3333 (FAX) 444-3026
www.danitesign.com

UL LISTED via STANDARD UL48
FILE NO:E60042 DaNITE SIGN CO.

For electrical illuminated signs. For non-illuminated signs, UL does not apply.

COLORS

- ☐ WHITE CABINET AND RETAINERS
- ☒ ALL LOGO COLORS TO BE PROVIDED BY CLIENT

APPROVED-CUSTOMER DATE



JOB NAME HORSEPOWER FARMS #S1-35546
STREET 3501 HOME ROAD
CITY, STATE POWELL, OH
SIGN TYPE WALL SIGNS

DATE 11/28/18 REV. DATE:
FILE NAME HORSEPOWER FARMS.CDR
DIRECTORY THAD > 2018 > H

SCALE AS NOTED SALE LD DESIGNER TK

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HORSE POWER FARMS
GARAGE CONDOS - POWELL, OH



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SEAL

NOT FOR
CONSTRUCTION

PROJECT NUMBER 018025

SHEET TITLE BUILDING 1 ELEVATIONS

SHEET NUMBER

A4.01

BUILDING ELEV GENERAL NOTES

NOTE: ACM FRAMES TO BE PROVIDED AND INSTALLED BY VW ACM VENDOR

NOTE: EXTERIOR SIGNAGE IS BY OWNER/DEALER AND TO BE COORDINATED WITH AGI. THE EXTERIOR SIGNAGE CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR ALL SEPARATE SIGN PERMITS.

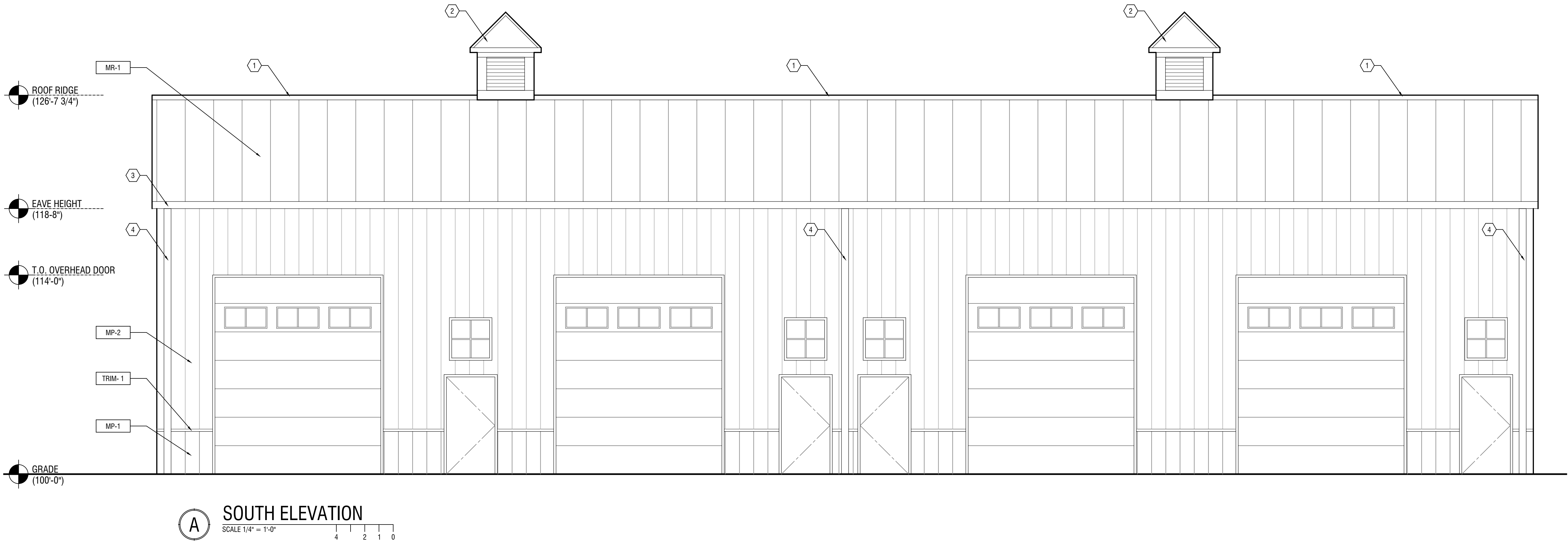
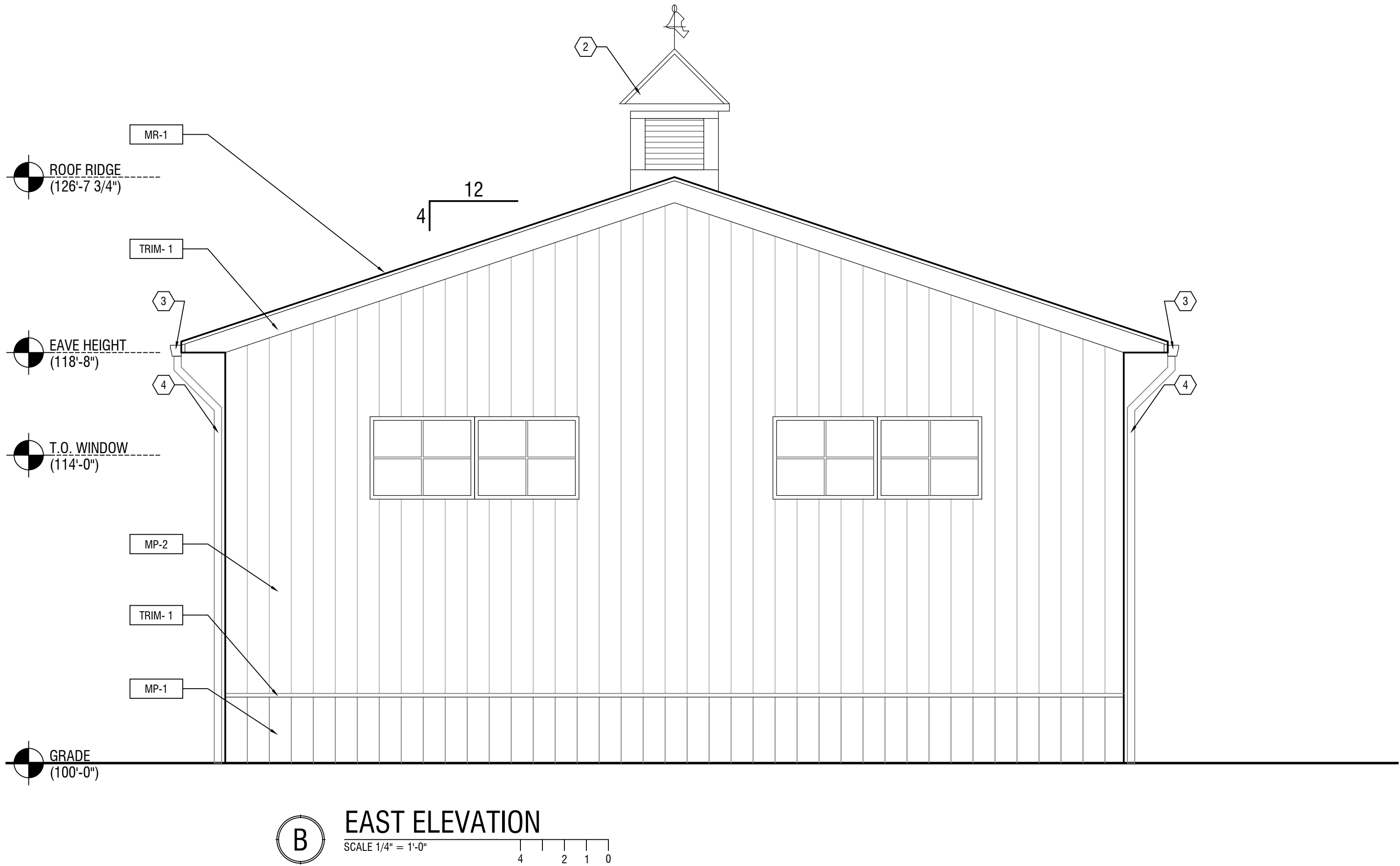
EXTERIOR FINISH SCHEDULE

NOTE: IF AREA IS NOT NOTED WITH A FINISH IT WILL BE EXISTING FINISH TO REMAIN. CONFIRM ANY DISCREPANCIES WITH ARCHITECT PRIOR TO FINISH WORK.

MP-1	METAL WALL PANEL MANUFACTURER: COLOR: STYLE: FINISH:	ENDURACOTE CHARCOAL GRAY 851
MP-2	METAL WALL PANEL MANUFACTURER: COLOR: STYLE: FINISH:	ENDURACOTE LIGHT GRAY 889
TRIM- 1	TRIM MANUFACTURER: COLOR:	ENDURACOTE SNOW 824
MR-1	METAL ROOF MANUFACTURER: COLOR: STYLE: FINISH:	ENDURACOTE CRINKLE COAT BLACK

CODED NOTES - ELEVATIONS

- 1 RIDGE VENT
- 2 PLYCO CUPOLA - ATTACH PER MFG'S RECOMMENDATIONS. PROVIDE STEP FLASHING AND COUNTER FLASHING AS REQUIRED.
- 3 6" GUTTER
- 4 4" X 5" PREFINISHED METAL DOWNSPOUT
- 5 SIGNAGE BY OWNER





HORSE POWER FARMS
GARAGE CONDOS - POWELL, OH



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PROJECT NUMBER 018025

SHEET TITLE BUILDING 2 ELEVATIONS

SHEET NUMBER

A4.01

BUILDING ELEV GENERAL NOTES

NOTE: ACM FRAMES TO BE PROVIDED AND INSTALLED BY YW ACM VENDOR

NOTE: EXTERIOR SIGNAGE IS BY OWNER/DEALER AND TO BE COORDINATED WITH AGI. THE EXTERIOR SIGNAGE CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR ALL SEPARATE SIGN PERMITS.

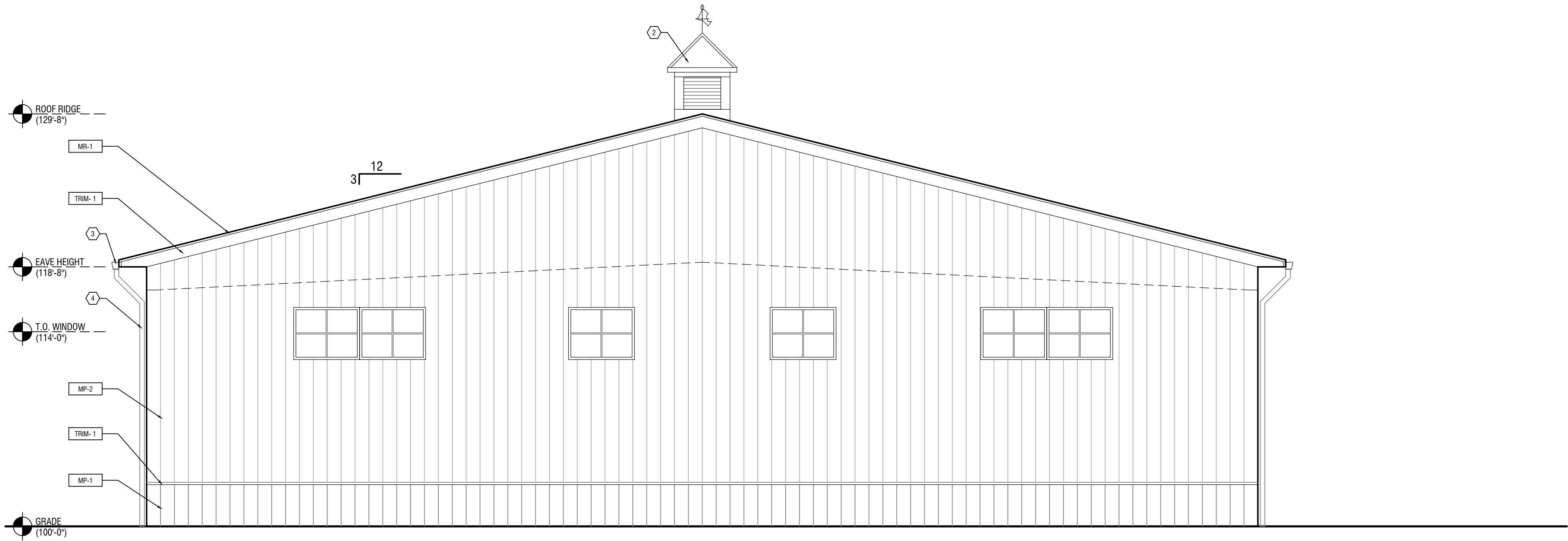
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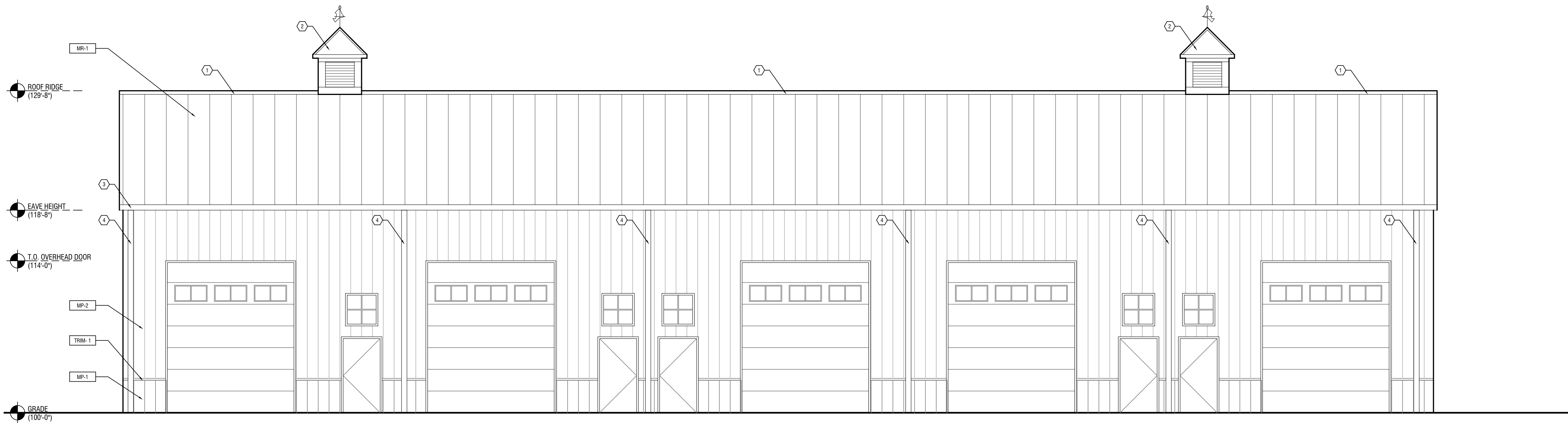
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- 3 6" GUTTER
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B EAST-WEST ELEVATION
SCALE 3/16" = 1'-0"



A NORTH-SOUTH ELEVATION
SCALE 3/16" = 1'-0"



HORSE POWER FARMS
GARAGE CONDOS - POWELL, OH



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NOT FOR CONSTRUCTION

PROJECT NUMBER 018025

SHEET TITLE CLUBHOUSE ELEVATIONS

SHEET NUMBER

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BUILDING ELEV GENERAL NOTES

NOTE: ACM FRAMES TO BE PROVIDED AND INSTALLED BY VW ACM VENDOR

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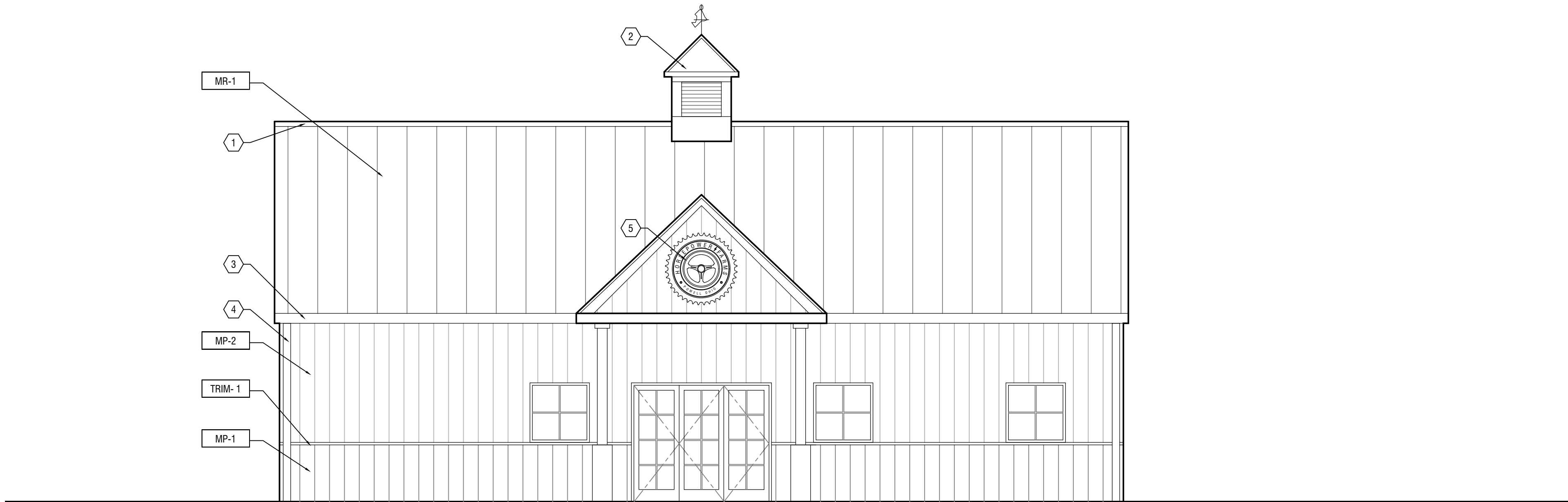
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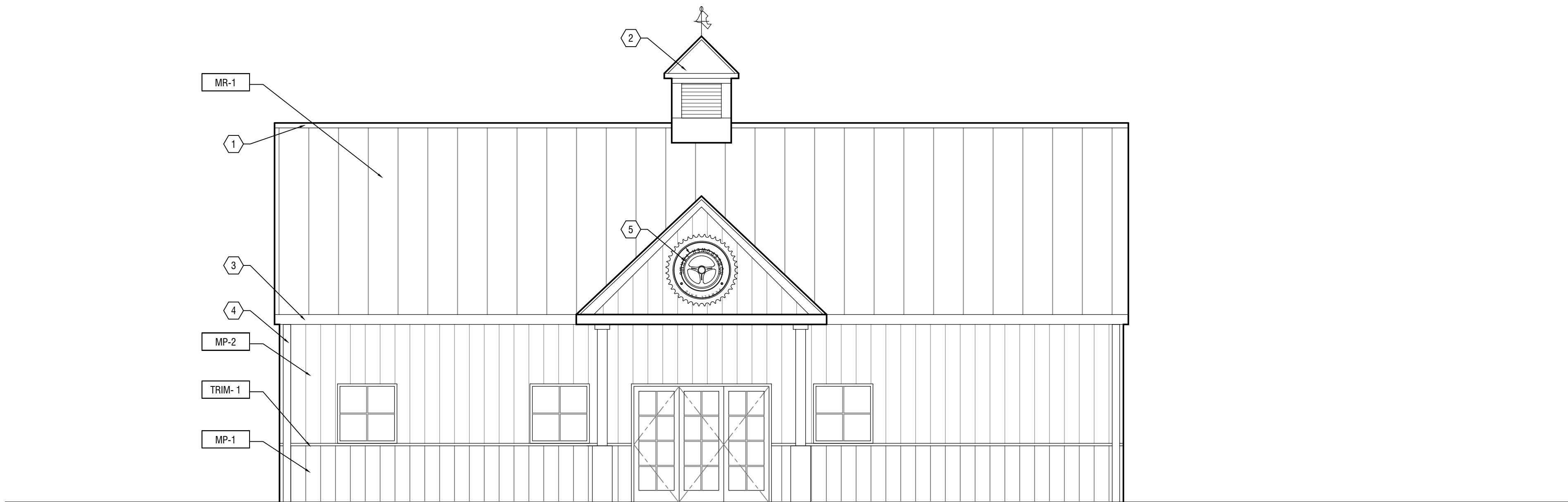
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CODED NOTES - ELEVATIONS

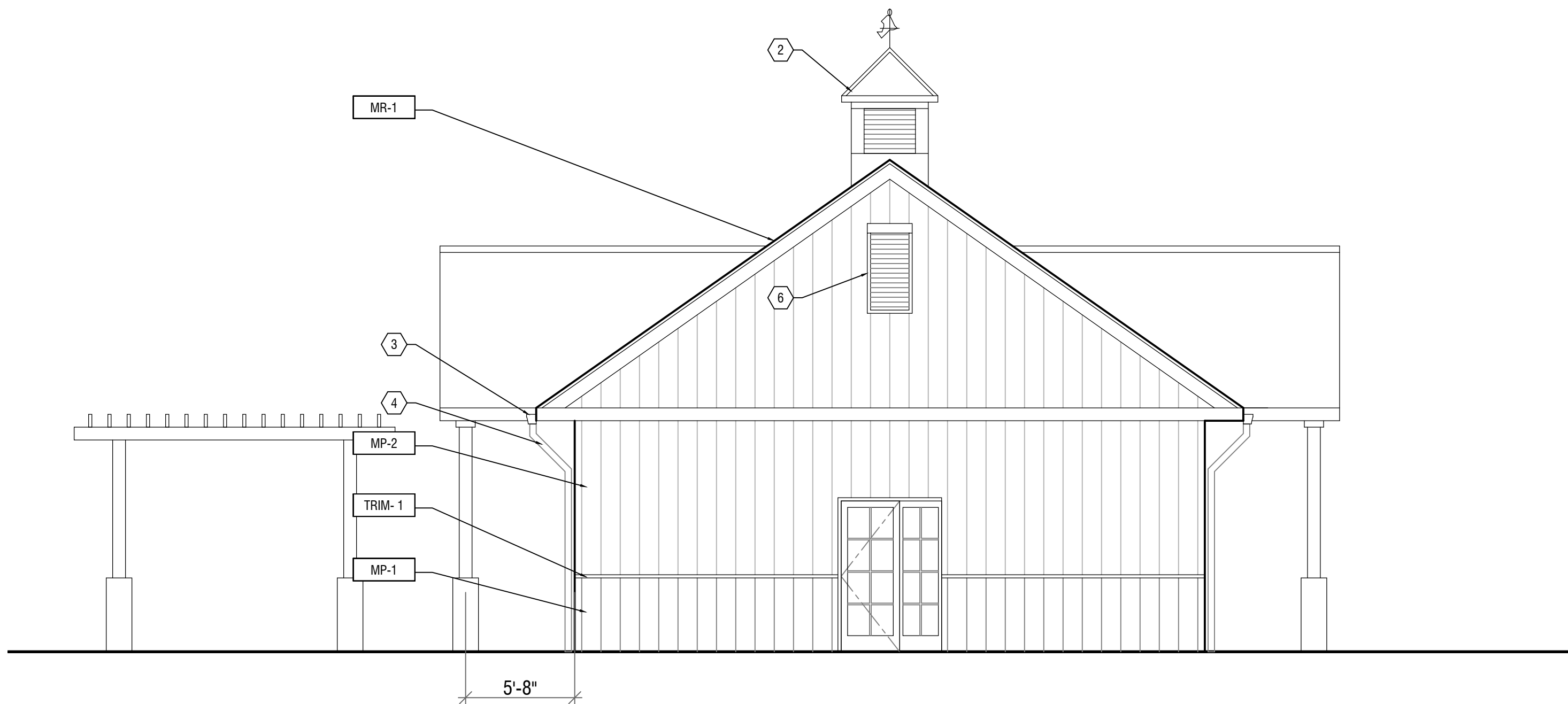
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- 5 SIGNAGE BY OWNER
- 6 GABLE VENT



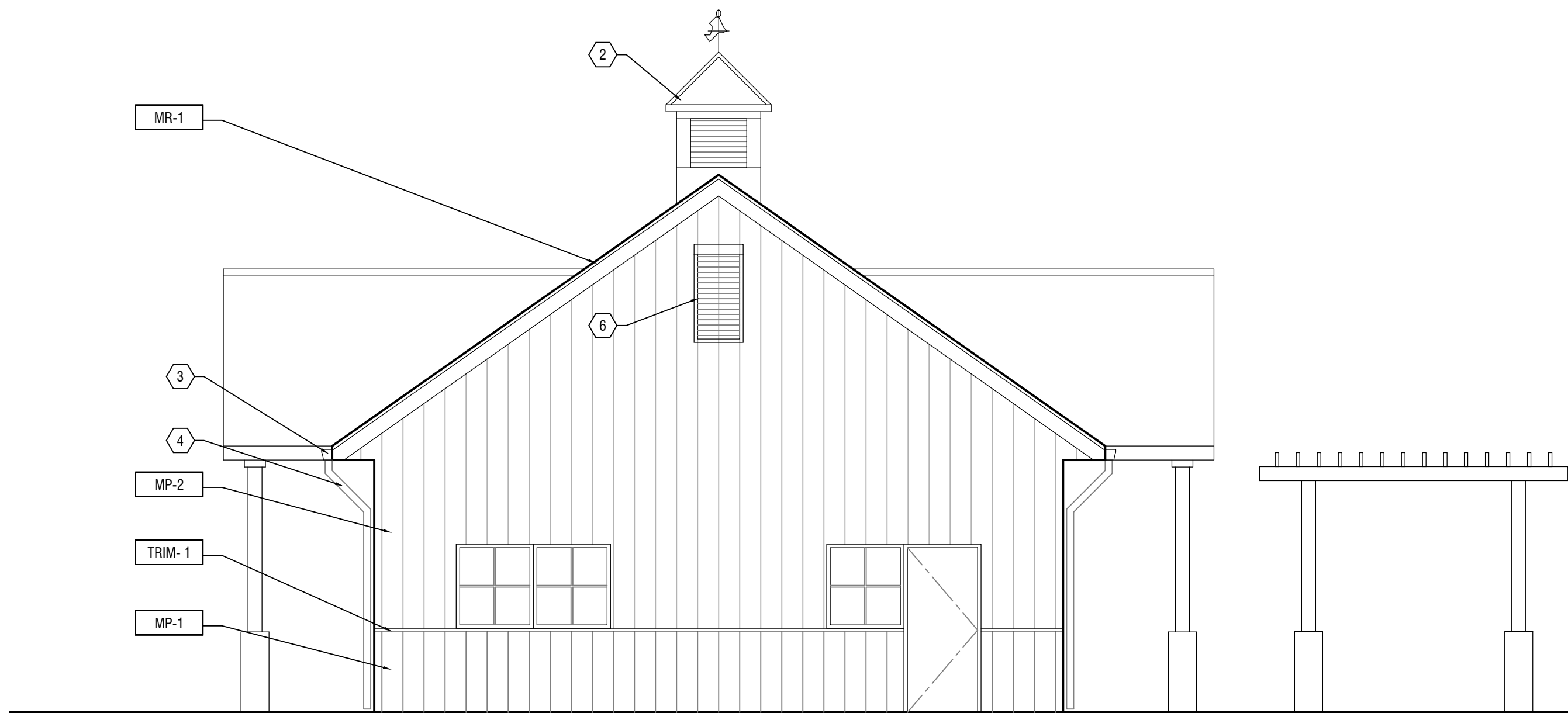
A EAST ELEVATION
SCALE 3/16" = 1'-0"



D WEST ELEVATION
SCALE 3/16" = 1'-0"



B NORTH ELEVATION
SCALE 3/16" = 1'-0"



C SOUTH ELEVATION
SCALE 3/16" = 1'-0"



HORSE POWER FARMS
GARAGE CONDOS - POWELL, OH



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SHEET NUMBER

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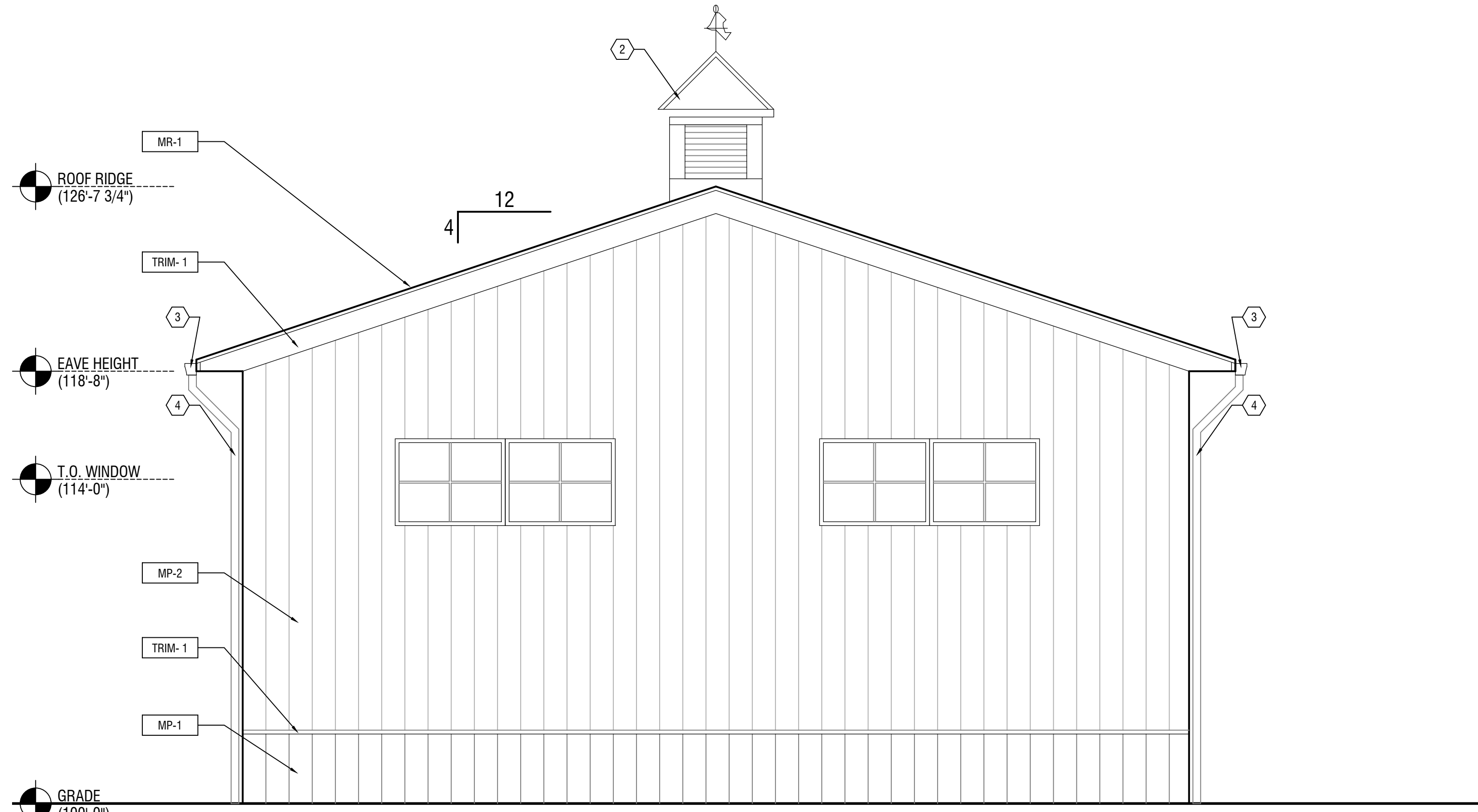
EXTERIOR FINISH SCHEDULE

NOTE: IF AREA IS NOT NOTED WITH A FINISH IT WILL BE EXISTING FINISH TO REMAIN. CONFIRM ANY DISCREPANCIES WITH ARCHITECT PRIOR TO FINISH WORK.

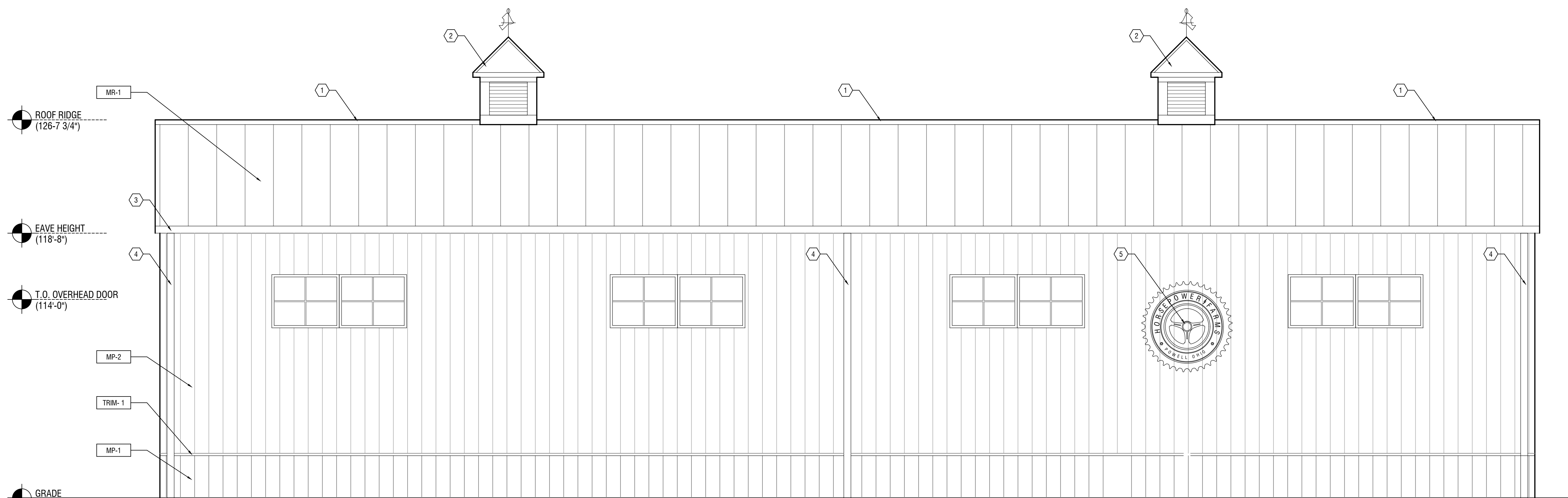
MP-1	METAL WALL PANEL MANUFACTURER: COLOR: STYLE: FINISH:	ENDURACOTE CHARCOAL GRAY 851
MP-2	METAL WALL PANEL MANUFACTURER: COLOR: STYLE: FINISH:	ENDURACOTE LIGHT GRAY 889
TRIM- 1	TRIM MANUFACTURER: COLOR:	ENDURACOTE SNOW 824
MR-1	METAL ROOF MANUFACTURER: COLOR: STYLE: FINISH:	ENDURACOTE CRINKLE COAT BLACK

CODED NOTES - ELEVATIONS

- 1 RIDGE VENT
- 2 PLYCO CUPOLA - ATTACH PER MFG'S RECOMMENDATIONS. PROVIDE STEP FLASHING AND COUNTER FLASHING AS REQUIRED.
- 3 6" GUTTER
- 4 4" X 5" PREFINISHED METAL DOWNSPOUT
- 5 SIGNAGE BY OWNER



D WEST ELEVATION
SCALE 1/4" = 1'-0"



C SOUTH ELEVATION
SCALE 1/4" = 1'-0"

PLAN GENERAL NOTES

PLAN DIMENSIONS FOR WALLS ARE MEASURED TO FACE OF STUD/FACE OF BLOCK RESPECTIVELY.

INTERIOR DOORS ARE LOCATED 4" OFF PERPENDICULAR WALL UNLESS OTHERWISE NOTED.

PLAN LEGEND

- INDICATES DOOR NUMBER "N" - SEE DOOR SCHEDULE SHEET A6.01.
- INDICATES WINDOW OR STOREFRONT TYPE "A" - SEE SCHEDULE ON SHEET A6.01

WALL TYPES

"S" INDICATES SOUND BATT INSULATION IN WALL CAVITY.

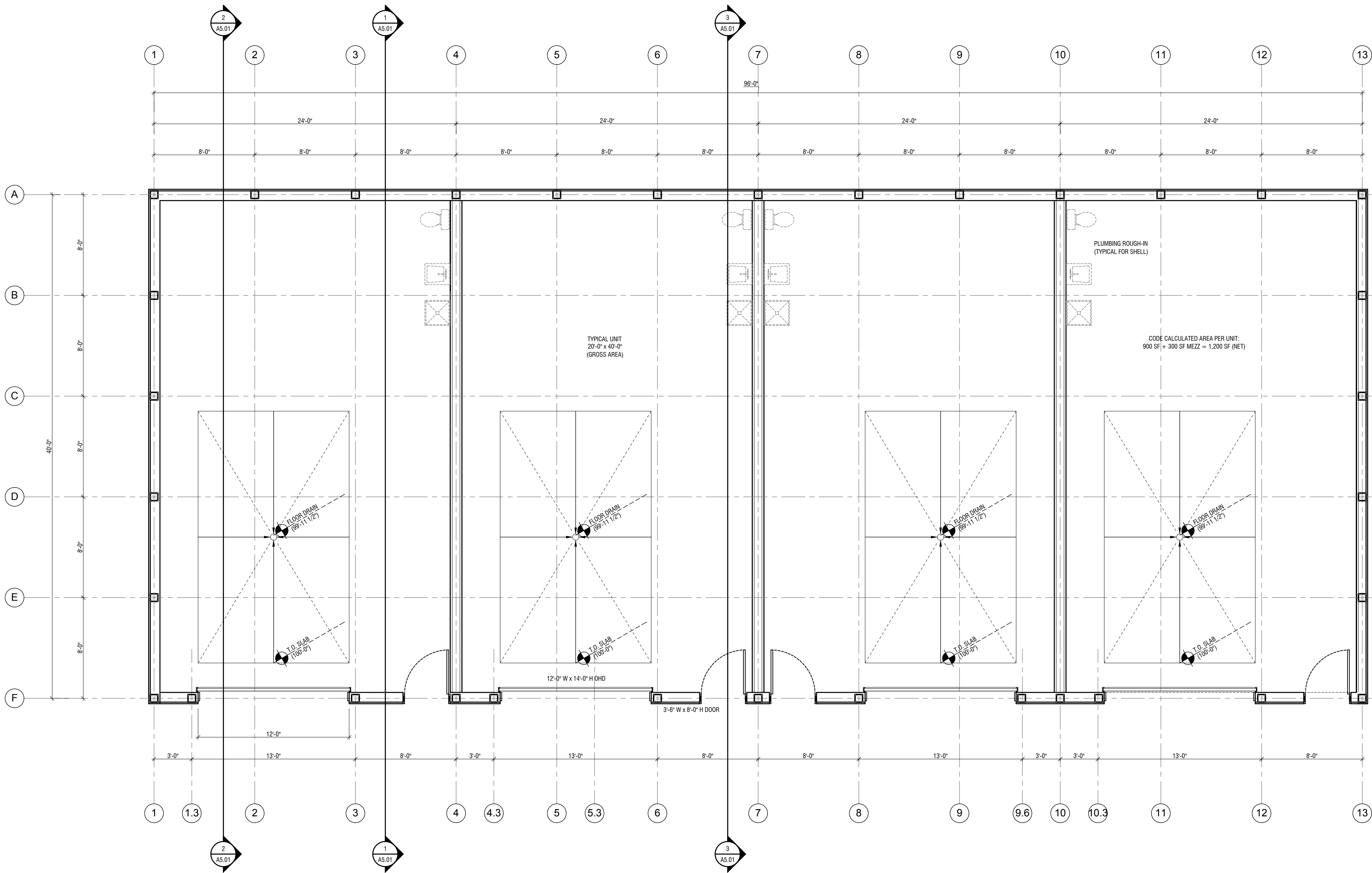
"M" INDICATES MOISTURE RESISTANT GYP/TILE BAKER.

1 -

PLAN CODED NOTES

NOT EVERY CODED WILL WILL APPEAR ON EACH SHEET

1 -



FLOOR PLAN
SCALE 1/4" = 1'-0"
4 2 1 0



DRAWING SET		
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SEAL

NOT FOR
CONSTRUCTION

PROJECT NUMBER 018025

SHEET TITLE BUILDING 2 FLOOR PLAN

SHEET NUMBER

A3.01

PLAN GENERAL NOTES

PLAN DIMENSIONS FOR WALLS ARE MEASURED TO FACE OF STUD/FACE OF BLOCK RESPECTIVELY.

INTERIOR DOORS ARE LOCATED 4" OFF PERPENDICULAR WALL UNLESS OTHERWISE NOTED.

PLAN LEGEND

- INDICATES DOOR NUMBER "N"- SEE DOOR SCHEDULE SHEET A6.01.
- INDICATES WINDOW OR STOREFRONT TYPE "A"- SEE SCHEDULE ON SHEET A6.01

WALL TYPES

"S" INDICATES SOUND BATT INSULATION IN WALL CAVITY.

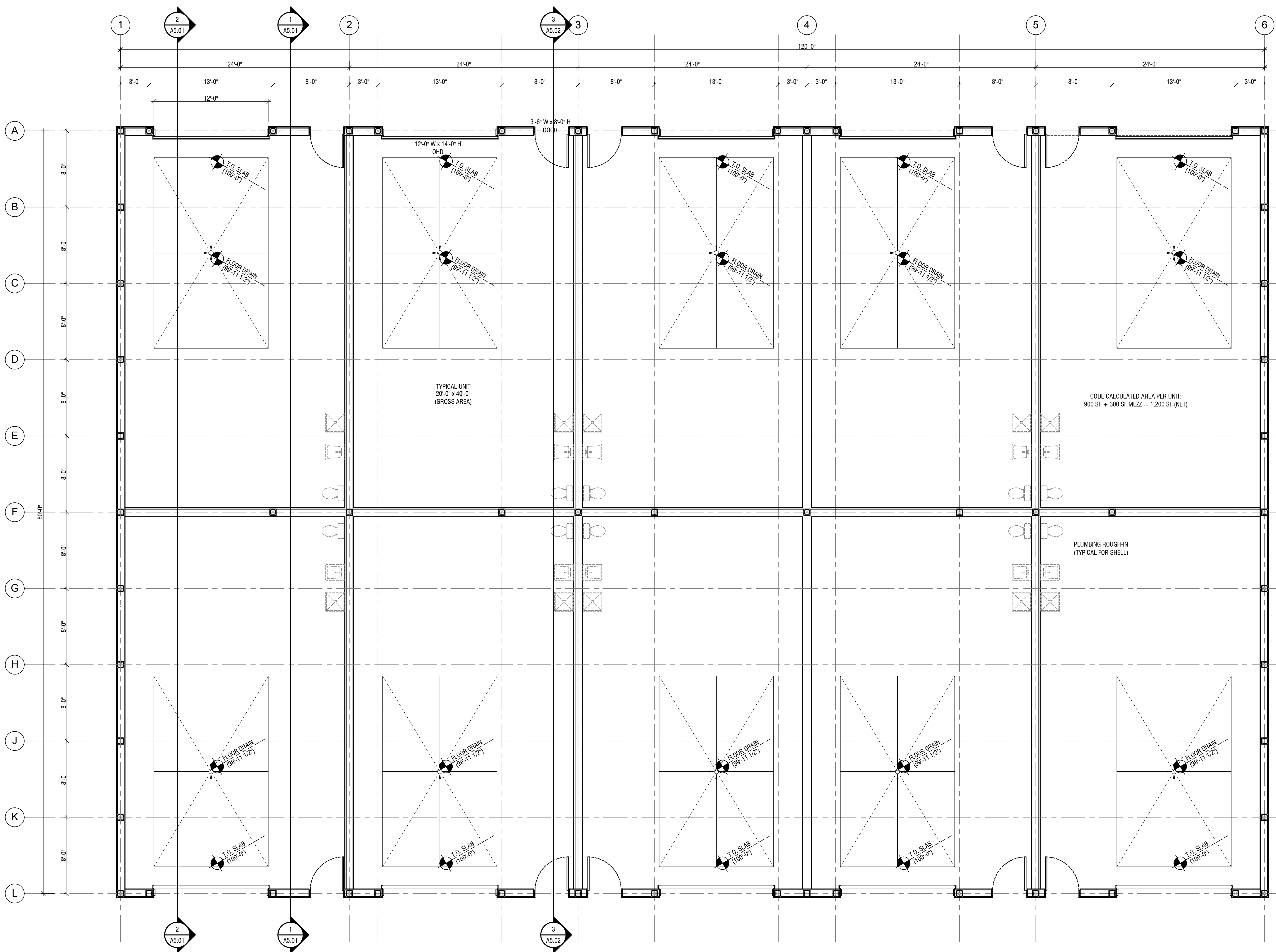
"M" INDICATES MOISTURE RESISTANT GYP/TILE BAKER.

1 -

PLAN CODED NOTES

NOT EVERY CODED WILL WILL APPEAR ON EACH SHEET

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FLOOR PLAN
SCALE 3/16" = 1'-0"
1 4 2 1 0

HORSE POWER FARMS
GARAGE CONDOS - POWELL, OH



DRAWING SET			
<input checked="" type="checkbox"/>	11	19	2018 preliminary
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<input type="checkbox"/>			construction

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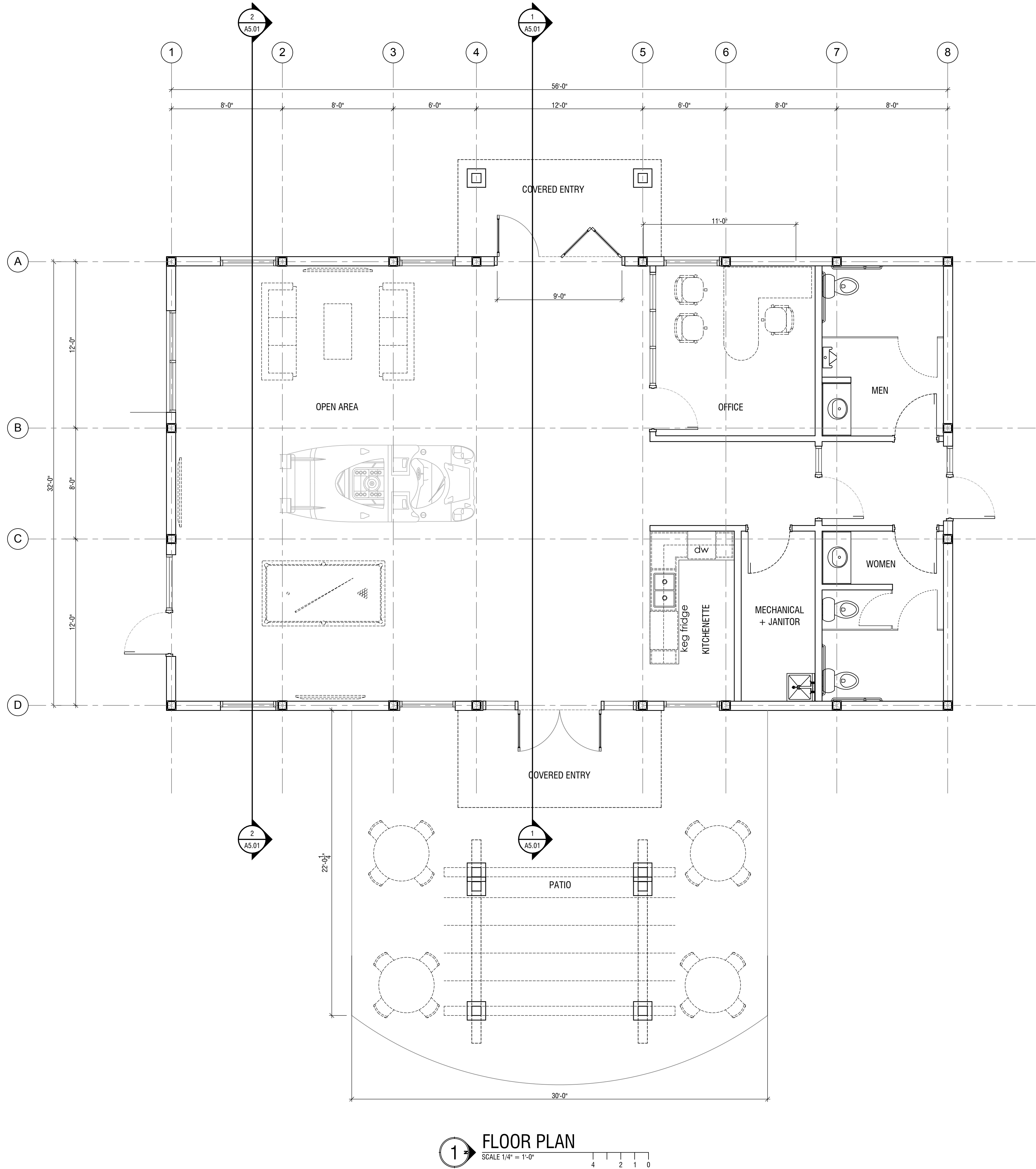
NOT FOR
CONSTRUCTION

PROJECT NUMBER 018025

SHEET TITLE CLUBHOUSE FLOOR PLAN

SHEET NUMBER

A3.01



TRAVERSE SERIES

SURFACE/CEILING/GARAGE

Cat.#

Job

Type



Approvals

SPECIFICATIONS

Intended Use:

The Traverse luminaire is a wall surface mounted luminaire with a field replaceable LED light engine & optical bezel system. Internal components are totally enclosed in rain-tight and corrosion-resistant die cast aluminum housing. The TRV Luminaire is suitable for wet locations.

Construction:

- Traverse luminaire consists of a die cast aluminum two-piece housing.
- Die cast main (thermal) housing provides direct heat exchange between the LED light engine and the cool outdoor air by drawing heat through integral heat channels and out to the sculptured and functional luminaire surface.
- LED drivers are thermally isolated from the main housing, mechanically attached and heat sunk to the rear housing.
- Main housing is designed with heat dissipating fins for LED thermal management without the use of metallic screens, cages, or fans.
- Shape of the main housing is designed to prevent debris accumulation and as a bird nesting deterrent. The back and main housings are designed to hinge open for easy mounting and easy access.

LED/Optics:

- Optical one piece cartridge system consisting of an LED engine, LED lamps, optics, gasket and stainless steel bezel.
- Cartridge is held together with internal brass standoffs soldered to the board so that it can be field replaced as a one piece optical system.
- A two-piece die cut silicone and polycarbonate foam gasket ensures a weather-proof seal around each individual LED and allows the Traverse luminaire to be rated for high-pressure hose down applications.
- Optical cartridge is secured to the extruded housing with fasteners and a heat pad to ensure thermal conductivity.
- Optics are held in place without the use of adhesives and the complete assembly is gasketed for high pressure hose down cleaning.
- Cartridge assembly is available in various lighting distributions using TIR designed acrylic optical lenses over each LED.

Electrical:

- 100V through 277V, 50 Hz to 60 Hz (UNV).
- Power factor is min 0.92 at full load.
- All electrical components are rated at 50,000 hours at full load and 40°C ambient conditions per MIL-217F Notice 2.
- Optional 0 to 10 volt dimming drivers are available upon request.
- Component-to-component wiring within the luminaire may carry no more than 80% of rated load and is listed by UL for use at 600VAC at 50°C or higher.
- Plug disconnects are listed by UL for use at 600 VAC, 15A or higher. 15A rating applies to primary (AC) side only.
- Surge protection - 20KA

Controls/Options:

- Traverse is available with an optional passive infrared (PIR) motion sensor capable of detecting motion 360° around the luminaire. When no motion is detected for the specified time, the Motion Response system reduces the wattage down to a factory preset level, reducing light level accordingly. When motion is detected, the luminaire returns to full wattage and full light output. Please contact Beacon Products if project requirements vary from the standard configurations
- Available with Energeni for optional set dimming with simple delay, or timed dimming based on time of night (see Energeni product page for more details www.beaconproducts.com/products/energeni)
- In addition, Traverse can be specified with **SiteSync™** wireless control system for reduction in energy and maintenance cost while optimizing light quality 24/7. See ordering information or visit: www.hubbelllighting.com/sitesync/ for more details

Installation:

- Rear housing (back plate) is designed with various bolt patterns for direct wall mounting or mounting to a recessed 4" junction box.
- Rear housing has three integral 3/4" NPT power feed locations (bottom and each side) for surface mounted conduit applications.
- After mounting the rear housing to the wall or junction box, the main housing is designed to hang and hinge closed after connecting the male and female quick connectors.
- Mounting design permits a simple retrofit to existing wall luminaires that utilize surface mount or recessed junction boxes.

Finish:

- IFS polyester powder-coat electrostatically applied and thermocured.
- IFS finish consists of a five stage iron phosphate chemical pretreatment regimen with a polymer primer sealer, oven dry off, and top coated with a thermoset super TGIC polyester powder coat finish.
- The finish meets the AAMA 605.2 performance specification which includes passing a 3000 hour salt spray test for corrosion resistance and resists cracking or loss of adhesion per ASTM D522 and resists surface impacts of up to 160 inch-pounds.

Listings:

- The luminaire shall bear a CSA label and be marked suitable for wet locations (standard).
- This product is approved by the Florida Fish and Wildlife Conservation Commission. Separate spec available at: <http://www.beaconproducts.com/products/traverse>

Warranty:

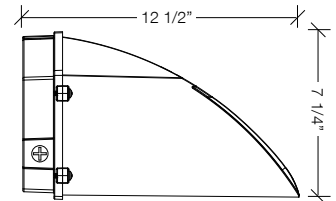
Five year limited warranty for more information visit: www.hubbelllighting.com/resources/warranty

PRODUCT IMAGE(S)

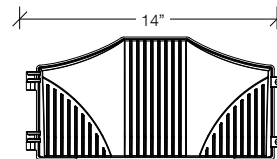


Shown with SiteSync™

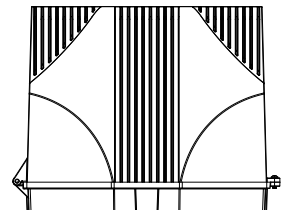
DIMENSIONS



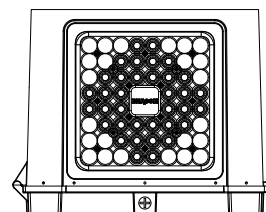
Side View



Front View



Top View



Bottom View

CERTIFICATIONS/LISTINGS



*3000K and warmer CCTs only



Beacon Products • 2041 58th Avenue Circle East Bradenton, FL 34203 • Phone: 800-345-4928

Due to our continued efforts to improve our products, product specifications are subject to change without notice.

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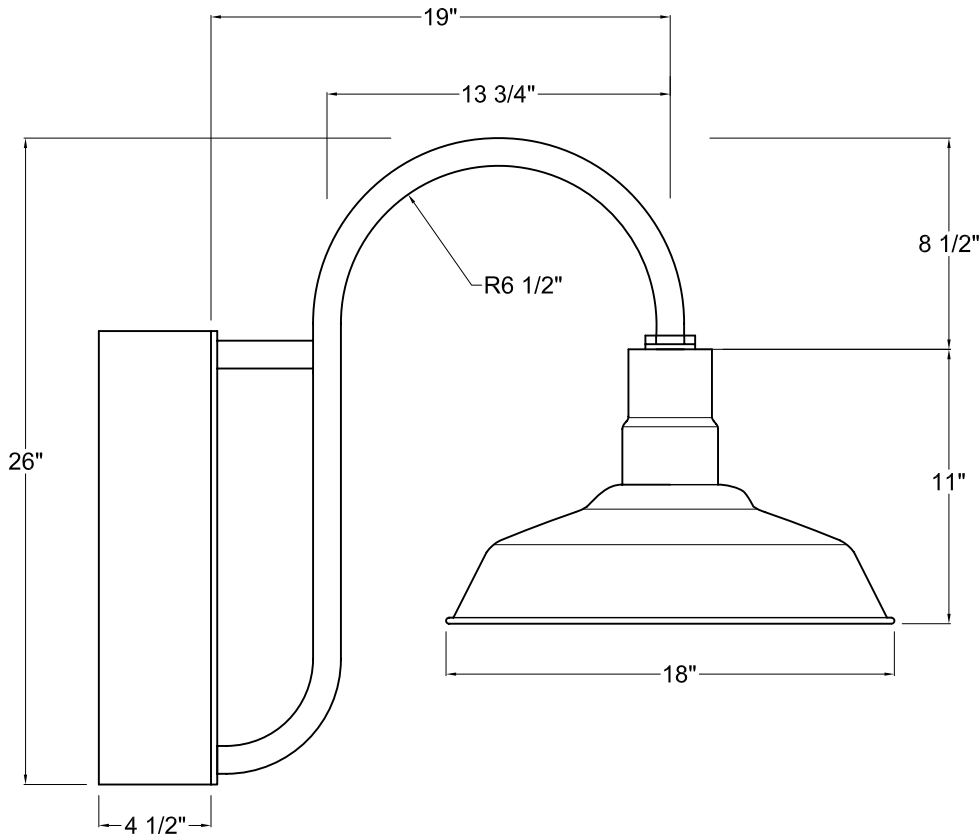




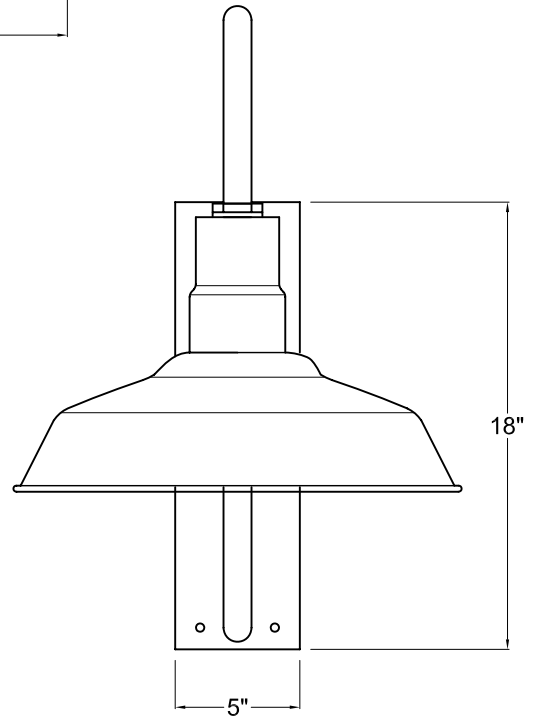
HI-LITE MFG. CO., INC.

13450 Monte Vista Avenue
Chino, California 91710
Telephone: (909) 465-1999
Toll Free: (800) 465-0211
Fax: (909) 465-0907
www.hilitemfg.com

JOB NAME:		
SCALE: N.T.S.	DATE: 07/08/2014	TYPE:
DRAWN BY: S.M.	QTY:	
SHEET:		REV:



SIDE VIEW



FRONT VIEW

Item Number	Wattage	Voltage
H-15118-119/B-4-BBB4-119/38/LED2/35/F/BCM-M	38W	120/277V

Finish

119-Bronze (Shade, Arm & Ballast Box)

Mounting

Wall Mount

Lamp/Socket

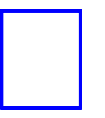
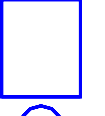
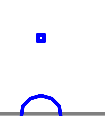

38W LED2 4000 Lumens, 3500k
82° Beam Angle Flat Lens

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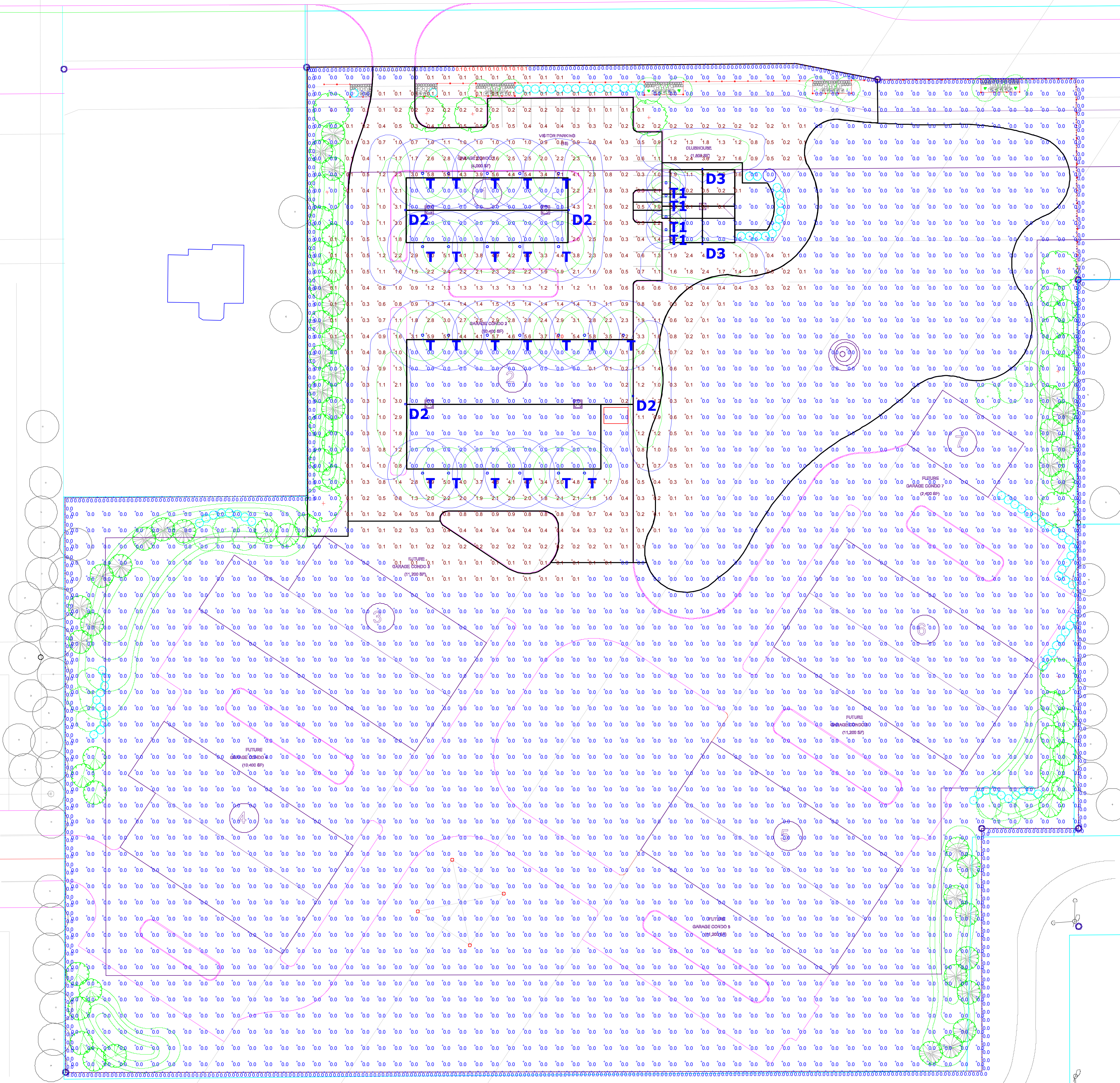
- Note**
- 1) Fixture type D2 mounted at 18ft AFG.
Fixture type T mounted at 14ft6in AFG.
Fixture type D3, T1 mounted at 8ft6in AFG.
 - 2) Isoline displays 1/2 (Blue) and 1 (Green) foot-candle contribution of an individual fixture / pole assembly
 - 3) Calculations spaced 5ft apart on property line.
Calculations spaced 10ft apart on area.
 - 4) Calculations are the expected average maintained illumination at grade during 1/2 normal life of fixtures.

Statistics

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #2	+	0.2 fc	6.0 fc	0.0 fc	N/A	N/A
Property Line	+	0.0 fc	0.1 fc	0.0 fc	N/A	N/A

Symbol	Label	QTY	Manufacturer	Catalog Number	Description	Lamp	Number Lamps	Lumens per Lamp	LLF	Wattage
	D2	4	BEACON PRODUCTS	TRV-24L-27-4K7-2	TRAVERSE	X-70-CRI	1	3783.6	0.95	26.7
	D3	2	BEACON PRODUCTS	TRV-24L-27-4K7-3	TRAVERSE	X-70-CRI	1	3760.559	0.95	26.7
	T	23	HI-LITE MANUFACTURING - WAREHOUSE	H-151-17-38-LED2-40-E-BCM-X-XX	WITH WHITE INTERIOR AND NO LENS	38 WATT LED MODULE	1	3920	0.95	38
	T1	4	HI-LITE MANUFACTURING - WAREHOUSE	H-153-16-B-13-LED2-40-E-BCM-X-XX	WITH WHITE INTERIOR AND NO LENS	13 WATT LED MODULE	1	1250	0.95	13

FRIESIAN LANE
60' R/W



**DECLARATION AND BYLAWS
CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
UNDER CHAPTER 5311 OF THE OHIO REVISED CODE FOR
HORSE POWER FARMS OF POWELL, A COMMERCIAL CONDOMINIUM
POWELL, DELAWARE COUNTY, OHIO**

CERTIFICATE OF AUDITOR

A copy of this Declaration with Bylaws and Drawings attached was filed with this office on the ____ day of _____, 2018.

County Auditor

CERTIFICATE OF RECORDER

I hereby certify that a copy of the Declaration of Condominium Ownership attached to this Certificate, together with the Bylaws and Drawings attached to said Declaration of Condominium Ownership, have been received for record this ____ day of _____, 2018, at ____ M. and recorded this ____ day of _____, 2018 in Volume _____, Page _____, Official Records, and Volume _____, Page _____, Book of Plats.

County Recorder

PREPARED BY:

TODD A. ERNSBERGER
ONDA, LABUHN, RANKIN & BOGGS CO., LPA
35 NORTH FOURTH STREET, SUITE 100
COLUMBUS, OHIO 43215

**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
HORSE POWER FARMS OF POWELL, A COMMERCIAL CONDOMINIUM**

Table of Contents

1. DEFINITIONS	1
2. SUBMISSION OF CONDOMINIUM PROPERTY TO CHAPTER 5311	4
3. NAME	4
4. DESCRIPTION OF CONDOMINIUM PROPERTY	4
5. DIVISION OF CONDOMINIUM PROPERTY	6
6. UNITS	6
7. COMMON ELEMENTS	7
8. OWNERSHIP OF COMMON ELEMENTS; PERCENTAGE OF INTEREST	7
9. USE OF COMMON ELEMENTS.....	9
10. LIMITED COMMON ELEMENTS AND THE USE THEREOF	9
11. EXCLUSIVE USE AREAS	10
12. EASEMENTS	10
13. PURPOSES OF CONDOMINIUM PROPERTY; COVENANTS AND RESTRICTIONS AS TO THE USE AND OCCUPANCY.....	12
14. THE ASSOCIATION	15
15. DUTIES OF THE ASSOCIATION	18
16. DUTIES OF UNIT OWNERS	19
17. CONSTRUCTION DEFECTS.....	20
18. ASSESSMENTS: COMMON EXPENSES AND COMMON PROFITS	21

19. INSURANCE AND CASUALTY LOSSES	22
20. CONDEMNATION	28
21. REHABILITATION OF BUILDINGS AND OTHER IMPROVEMENTS	30
22. REMOVAL FROM PROVISIONS OF CHAPTER 5311	30
23. ADDITION TO CONDOMINIUM PROPERTY	31
24. AMENDMENTS	35
25. REMEDIES FOR BREACH OF COVENANTS AND RULES	36
26. SALES, LEASING OR OTHER ALIENATION	38
27. RESERVATION OF DEVELOPMENT RIGHTS AND PLAN OF DEVELOPMENT.....	42
28. EXEMPTIONOF DECLARANT FROM RESTRICIONS AND RESERVATIONS AND RESERVATION OF SPECIAL DECLARANT RIGHTS.....	43
29. MISCELLANEOUS PROVISIONS	45

**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
HORSE POWER FARMS OF POWELL, A COMMERCIAL CONDOMINIUM**

HORSE POWER FARMS, LLC, an Ohio Limited Liability Company (Declarant) being the owner of the Condominium Property hereinafter described makes the following declaration:

1. DEFINITIONS

Whenever used herein, in the Bylaws, and in any amendments or supplements hereto, unless the context otherwise requires,

(A) “Additional Property” means that certain real property described on Exhibit A, attached hereto and made a part hereof that may, at Declarant’s option, be added to and expand the Condominium Property pursuant to Chapter 5311 and in accordance with Section 23 herein.

(B) “Assessments” means the determination of the share of common expenses and other charges which from time to time shall be payable by each Unit Owner. Other charges shall mean and include, without limitation,

1. The costs, expenses and charges for repairs and replacements made by the Association which were the duty of the Unit Owner to make;
2. Any special charges made by the Association to the Unit Owner for special services rendered to the Unit Owner or his Ownership Interest and for special or extraordinary uses or consumption attributable to such Unit Owner or his ownership interest;
3. Damages resulting from the failure of the Unit Owner to perform any of the duties imposed herein upon him;
4. Damages resulting from the Unit Owner’s failure to comply with any of the rules or with any of the covenants, conditions and restrictions contained in this Declaration or the Bylaws;
5. The costs of any action to obtain injunctive relief against such noncompliance;
6. Payments for utility charges made by the Association which were the duty of the Unit Owners to make, and payments of a similar or dissimilar kind made by the Association but which were justly and equitable the obligation of the Unit Owner to make;
7. Any other charges or assessments permitted by this Declaration or the Bylaws to be made against the Unit Owner or his Ownership Interest; and
8. Interest upon each assessment and charge at the highest legal rate which may be charged to an individual without being usurious but in no event higher than 10% per annum from the date of the assessment or charge first comes due to the date it is paid in full and/or the reasonable cost of collection or any assessments and charges (including court costs and reasonable attorneys’ fees).

(C) **“Association”** means HORSE POWER FARMS OF POWELL Condominium Owners Association, the entity established for the administration and operation of the Condominiums and consisting of all the Unit Owners existing from time to time.

(D) **“Board”** means the Board of Directors of the Association as the same may be constituted from time to time.

(E) **“Bylaws”** means the Bylaws of the Association, a true copy of which is annexed hereto to Exhibit D and made a part hereof.

(F) **“Buildings”** means that part of the Condominium Property constituting the Office and Storage Unit Buildings which now exist, or which may hereafter be added to the Condominium Property.

(G) **“Chapter 5311”** means Chapter 5311 of the Ohio Revised Code as the same may be amended or supplemented from time to time.

(H) **“Club House”** means the Club House building as shown on the Drawings. The Club House shall be approximately Fifty-six Feet (56') deep, Thirty-four Feet (34') wide and Sixteen Feet (16') high.

(I) **“Common Elements”** means all of the Condominium Property except the Units. The Common Elements shall include tangible personal property existing for the common use, enjoyment, or safety of the Unit Owners and for the maintenance of other parts of the Common Elements such as, decorations and equipment. Common Area, Common Facility and Common Facilities means Common Elements, except that their use in a particular sentence may be an obvious reference to a particular part or kind of the Common Elements. For example, the words Common Areas may be used to refer to lands outside the building, and Common Facilities may be used to refer to the wash down area and Club House.

(J) **“Common Expenses”** means those expenses designated as Common Expenses in Chapter 5311 in this Declaration, and in the Bylaws, or in any one or more of such documents, including without limitation the following:

1. All sums lawfully assessed against the Unit Owners by the Association.
2. Expenses, rentals, charges, payments and obligations of the Association incurred in the use, administration, maintenance, repair and replacement of the Common Elements and reserves established for such purposes.
3. Expenses, charges and costs of utility services furnished to the Common Elements.
4. All other expenses determined from time to time to be common expenses by the Association.

(K) **"Common Profit"** means the amount by which the total income profits, receipts and revenues from the Common Elements for a calendar year exceed the common expense for the same calendar year.

(L) **"Condominium"** means the Condominium Property, the relationship, the form of ownership thereof and the Association

(M) **"Condominium Property"** means the land together with the buildings and all improvements thereon, all easements rights and appurtenances belonging thereto, all articles of personal existence thereon for the common use of the Unit Owners.

(N) **"Declaration"** means this instrument and all of the exhibits and attachments hereto, as originally executed, or if amended as so amended.

(O) **"Drawings"** means the drawings prepared and certified by a certified engineer in accordance with Section 5311.07 of the Ohio Revised Code, relating to the entity known as HORSE POWER FARMS OF POWELL completed or not yet completed attached hereto as Exhibit C. The word drawings shall include, also all amendments, supplements, and additions thereto, if they should be amended, supplemented or added to. Drawings shall also mean any other drawings submitted by all parties with reference to the construction of HORSE POWER FARMS OF POWELL.

(P) **"Exclusive Use Areas"** means those parts of the Common Elements, other than Limited Common Elements reserved for use of a certain Unit or Units to the exclusive use of other Units and such other parts or spaces as may be designated by the Association.

(Q) **"Land"** means the land described on Exhibit B, where each Building shall exist consisting of the Condominium Property.

(R) **"Legal Description"** means the Land described on Exhibit B, attached hereto and made a part hereof.

(S) **"Limited Common Elements"** means those parts of the Common Elements reserved for the use of a certain Unit or Units to the exclusion of all other Units.

(T) **"Majority" or "Majority of Owners"** means the Owners of Units to which more than fifty percent (50%) of the undivided ownership of the Common Elements is appurtenant. Any specified fraction or percentage of the Owners means the Owners of Units to which the fraction or percentage of undivided ownership of the Common Elements is appurtenant.

(U) **“Office Unit”** means the space in the Club House, on the Drawings, which is a part of the Club House, or the Units designated as Office Units on the Drawings and as more fully described in Section 4(a) below.

(V) **“Ownership Interest” means:**

1. The exclusive ownership and possessory interests and the entire title to a Unit.
2. The undivided percentage interest in the Common Elements appertaining thereto.

(W) **“Person”** means a human being and a corporation, partnership, trust and any other legal entity to which the law attributes the capacity of having rights and duties.

(X) **“Rules”** means such rules and regulations governing the operation and use of the Condominium Property or any portion thereof as may be adopted by the Association or the Board from time to time.

(Y) **“Start Up Period”** means the period commencing with the date this Declaration is filed to be recorded with the Delaware County Recorder and ending on the last day of the twelfth full calendar month following the month in which legal title to a Unit is first conveyed to a purchaser.

(Z) **“Storage Units”** means the Units numbered 1 through 18 (excluding 13) of the Drawings or the Units designated as Storage Units on the Drawings and as more fully described in Section 4(b) below.

(AA) **“Taking”** means whenever all or part of the Common Elements or Units shall be taken by an authority having the power of condemnation or eminent domain.

(BB) **“Unit”** means either an Office Unit or a Storage Unit.

(CC) **“Unit Owner”** means the person or person owning:

1. The exclusive ownership and possessory interests and the entire title in a Unit.
2. An undivided percentage interest in the Common Elements, excluding however those persons having interest merely as security for the performance of an obligation.

2. **SUBMISSION OF CONDOMINIUM PROPERTY TO CHAPTER 5311**

Declarant hereby submits the Condominium Property to Chapter 5311 as a commercial condominium.

3. **NAME**

The Condominium Property shall be known as HORSE POWER FARMS OF POWELL.

4. DESCRIPTION OF CONDOMINIUM PROPERTY

The general description of the Condominium Property is described as follows

(A) Club House and Storage Unit Buildings

The initial building contains the Club House, Office Unit and adjoining but separate bathroom facilities. The Office Unit is constructed on a concrete slab being a minimum of 4" thick. The Office Unit shall contain 40 AMP Electrical Service with no less than 4 wall outlets. The Office Unit shall be lighted on the interior. The Office Unit shall be approximately Eleven Feet (11') deep, Thirteen Feet (13') wide and Eight Feet, Eleven Inches (8'11") high. The Office Unit shall consist of approximately 143 square feet of area. The Office Unit is constructed of wooden studs, framing joists, rafter and plates, wooden trusses, metal roof, and approved dry wall on the interior walls and ceiling. The Club House and Office Unit Building shall be basic pole type construction with masonry fire walls as may be required by county codes. The side-walls shall contain approximately six Inches (6") of R-19 insulation, the ceiling shall contain approximately Ten Inches (10") of R-30 insulation and there shall be approximately Two Inches (2") of R-10.5 insulation under the floor. The Office Unit will be serviced by water and sewer. The Office Unit shall include the designated parking space(s) as depicted on the Drawings. The Club House and Office Unit will be constructed with water and sewer utility line hook-ups available.

The Storage Units are constructed on a concrete slab being a minimum of 4" thick. Each Storage Unit shall contain 60 AMP Electrical Service with no less than 4 wall outlets. Each Storage Unit shall be lighted on the interior. Each Storage Unit shall be between approximately Forty Feet (40') deep; Twenty-four Feet (24') wide and Sixteen Feet (16') high. Each Storage Unit shall contain a garage door no less than 12'w x14'h with an electric opener. Each Storage Unit is constructed of wooden studs, framing joists, rafter and plates, wooden trusses, asphalt or fiberglass shingles, and approved dry wall on the interior walls and ceiling. The Storage Unit Buildings shall be basic pole type construction with masonry fire walls as may be required by county codes. The side-walls shall contain approximately six Inches (6") of R-19 insulation, the ceiling shall contain approximately Ten Inches (10") of R-30 insulation and there shall be approximately Two Inches (2") of R-10.5 insulation under the floor. All Storage Units will be constructed with water and sewer utility line hook-ups available. Unit Owners shall pay Declarant or the Association, as the case may be, an additional tap-in fee to access the same.

(B) Additional Condominium Property Specifications

1. The Condominium Property drawings may be amended from time to time by the Declarant.
2. Other improvements on the land shall include driveways, landscaping and underground and above ground conduits and appurtenances for utilities.
3. The designation of each Unit and a statement of its percentage of interests in the Common Elements in the Association for voting purposes, and in the common expenses for assessments is set forth in the Bylaws hereto attached.
4. The location, layout and dimensions of the buildings, the locations and dimensions of the Units, the approximate area of each Unit in square feet, the immediate Common Elements

and Limited Common Elements to which each Unit has access, the location and dimensions of the Limited Common Elements, and other matters are shown graphically on the Drawings.

5. Declarant may at any time relocate, add or remove in whole or in part, partitions within any Units owned by Declarant, provided that structural and bearing walls and walls containing utility lines serving other Units may not be relocated or removed. Each Unit Owner may partition the interior of his Unit in any way he elects. The interior layout of the Condominium Units is shown by the Drawings as such bays and layouts exist and are created by virtue of the non-movable structural and bearing walls and walls containing utility lines serving other Units.

5. DIVISION OF CONDOMINIUM PROPERTY

The Condominium Property is hereby divided into One (1) Club House and Office Building, containing One (1) Office Unit, the Common Element Club House and separate men's and women's ADA compatible bathroom facilities.

6. UNITS

Each of the Units shall consist of all of the space bounded by the vertical planes formed by the respective undecorated interior surfaces of the perimeter walls, and horizontal planes formed by the ground floors and by the dry wall or other coverings beneath the roof rafters of each Unit, and including without limitation the following:

(A) The decorated surfaces including paint or any other finishing materials applied to said perimeter walls, floors, and rafter coverings, and the finishing materials and coverings applied to the interior walls, floors, and rafter coverings.

(B) The receptacle, switch plates, covers grills, vents, vent covers, registers, and other coverings of space, light fixtures, and control knobs within the bounds of a Unit and which serve only that Unit.

(C) All non-structural interior walls (other than walls separating Units) and all space between interior walls, including the space occupied by structural and component parts of the building and by utility pipes, wires and conduits within the bounds of a Unit.

(D) Without limiting the foregoing, all space occupied by any Common Elements located within the bounds of a Unit.

But excepting therefrom all of the following items which to the extent they are Limited Common Elements and are to be used and enjoyed by the Unit Owner in or to which may hereinafter be located or relocated and defined as.

(A) All walls, floors, ceilings, and rafter coverings separating or delineating Units except the decorated surfaces thereof.

(B) All doors, door jambs, door lifts and controls, floors, ceilings, and roofs.

(C) All structural portions of the building lying within the bounds of the Unit.

(D) All heating, cooling and ventilating equipment, even though located within and serving only one Unit, and all parts, insulation, and appurtenances thereto, including the thermostats and control devices.

(E) All plumbing, electrical, heating, cooling, ventilating and other utility or service lines, pipes, ducts, outlets, conduits and valves existing within a Unit to their place of connection. To

valves, registers, grills, outlets, light fixtures, and receptacles within a Unit and/or to their tap, plug, or shut off valve within a Unit, and all such lines, pipes, ducts, wires, plugs, outlets, conduits, and valves which serve or may serve more than one Unit.

(F) The valves, plugs and switches at the end of any lines, pipes, and wires which constitute common facilities.

(G) Without limiting the foregoing, all Common Elements and Limited Common Elements located within the bounds of a Unit.

(H) The dimensions, the number of square feet of floor space in each Unit, the Common Elements, and Limited Common Elements to which each Unit has access, the location, and layout of each Unit, and the description of all Units are shown graphically on the Drawings.

7. COMMON ELEMENTS

(A) Description

The Common Elements are all of the Condominium Property except the Units. Without limiting the generality of the foregoing, the Common Elements include the following, whether or not located within the bounds of a Unit.

1. The yards, gardens, trees, lawns, driveways, walks, and pavements.
2. The heating and ventilating units and all parts, ducts, and installations related thereto for each Unit although these are Common Elements each is reserved for the use of a certain Unit to which it is appurtenant to the exclusion of other Units and as such these are Limited Common Elements as hereinafter described.
3. Installations of any central or common services such as water and gas and common meters, therefore, and all pipes storm and sanitary sewers, ducts, wires, conduits, television lines for any cable antenna television service receptacles, switches, grills thermostats and control devices which are a part of or used in conjunction with any of the foregoing.
4. All apparatus and installations existing for common use.
5. All other parts of the Condominium Property necessary or convenient to its existence, maintenance and safety or normally in common use, or which have been designated as Common Elements.
6. All repairs and replacements of any of the foregoing.
7. Any room or structure within or attached to the building containing common facilities such as water, and gas meters electrical panels, switches and other utilities and mechanical.

8. OWNERSHIP OF COMMON ELEMENTS; PERCENTAGE OF INTEREST

The Common Elements comprise in the aggregate a single freehold estate, shall be owned by the Unit Owners as tenants in common and shall remain undivided. No action for partition of any part of the Common Elements shall be maintainable except as provided in Chapter 5311, nor may any Unit Owner otherwise waive or release any rights in the Common Elements; provided however that if any ownership interest be owned by two or more co-owners as tenants in common or as joint tenants nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of such ownership interest as between such co-owners.

The percentage of undivided interest in the Common Elements appertaining to each Unit and its owner, and the percentage of interest of each Unit in the Association for voting purposes

for the distribution of Common Profits, for the assessment and payment of Common Expenses and for all other purposes shall be in the proportion to the size (in square feet) that each Unit bears to the aggregate size (in square feet) of all the Units having an interest in the Common Elements, rounded to the nearest whole number. Until changed pursuant to this Declaration, the percentages of ownership of the Common Elements appurtenant to the Units shall be as follows:

<u>Unit Designation</u>	<u>Percentage</u>
1	5.55%
2	5.55%
3	5.55%
4	5.55%
5	5.55%
6	5.55%
7	5.55%
8	5.55%
9	5.55%
10	5.55%
11	5.55%
12	5.55%
14	5.55%
15	5.55%
16	5.55%
17	5.55%
18	5.55%

In the event that Declarant elects to construct additional Units on part or parts of the Additional Property, the interest in the Common Elements appurtenant to the Units in the Additional Property shall be computed in the proportion of the size of each Unit with the aggregate size of all of the Units, rounded to the nearest whole number.

The undivided percentage of interest of each Unit Owner in the Common Elements, as said percentage of interest and Common Elements may exist from time to time shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with its respective Unit even though the description in any instrument of conveyance or encumbrance refers only to the Unit.

9. USE OF COMMON ELEMENTS

(A) Except as otherwise limited and restricted herein each Unit Owner shall have the right to use the Common Elements in the accordance with the purposes for which they are intended, for all purposes incident to the use and occupancy of his Unit, including without limitation the non-exclusive easement together with other Unit Owners, to use and enjoy the Common Elements for ingress and egress to and from the respective Units, and for such other uses as are permitted by this Declaration and the Bylaws, which rights shall be appurtenant to and run with his Unit, provided however that no person shall use the Common Elements or any part thereof in such a manner (i) as to interfere, restrict, impede the use thereof by others entitled to the use thereof or in any manner contrary to, or (ii) that is not in accordance with this Declaration, the Bylaws, and the rules.

(B) The Association shall, subject to the provisions of this Declaration and the Bylaws, have the right but not the obligation, to promulgate rules and regulations limiting the use of the Common Elements and governing the use of the exclusive use areas.

10. LIMITED COMMON ELEMENTS AND THE USE THEREOF

Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy to the exclusion of all others the Limited Common Elements which are located within the bounds of his Unit or which serve only his Unit.

(A) All structural interior walls and one-half of any wall separating one Unit from the other, doors including the entrance door to each Unit and all hardware attached thereto, floors, ceilings, and attic or rafter ceilings located within the bounds of such Unit, excluding the structural and component parts thereof.

(B) All door frames within the perimeter walls of such Unit and all doors hinges, locks, latches and hardware within or on the perimeter walls of such Unit or on the Limited Common Elements belonging to such Unit.

(C) All ducts and plumbing, electrical, and other fixtures equipment and appurtenances including heating, cooling and ventilating equipment and systems, thermostats and control devices if and any sanitary and storm sewer cleanouts located within the bounds of such Unit or located outside the bounds of a Unit but serving a particular Unit, and the structure and space thereof, if any located outside such Unit containing equipment serving only such Unit.

(D) All gas, electrical, water or other utility or service lines, pipes, wires, and conduits located within the bounds of such Unit and which serve only such Unit.

(E) Entrances and the walk, concrete slab and/or asphalt and landscaping therein, adjacent to and serving each Unit.

(F) All other Common Elements located within the bounds of such Unit and which serve only such Unit.

Subject to the rights of the Association to maintain for and on behalf of the Unit Owners all or parts of the Limited Common Elements, each Unit Owner has the responsibility of maintaining the Limited Common Elements appurtenant to his Unit as hereinafter provided.

11. EXCLUSIVE USE AREAS

Each Unit Owner is hereby granted an exclusive but revocable license to use and enjoy such exclusive use areas as the Association may allocate to such Unit Owners upon and subject to such terms and conditions as the Association may determine without limited the generality of the foregoing. The Association may also hereafter designate specific, clearly defined parts of the Common Elements for a particular use or uses which serve the general welfare of all or a number of the Unit Owners and are beneficial to the Condominium Property. All such part or parts and use thereof shall at all times be subject to such rules, terms and conditions as may be promulgated by the Association and shall at all times be subject to change and removal from the exclusive use areas by the Association.

Without limiting the generality of the foregoing, the Association may at any time and from time to time revoke any license granted hereunder and reassign the use of such areas in accordance with such rules as it may establish from time to time. The Association may require that maintenance of any exclusive use areas shall be the sole responsibility of the licensee and/or user thereof.

12. EASEMENTS

The Condominium Property is hereby made subject to the following easements and reservations of easements, all and each of which shall, unless otherwise expressly provided be in perpetuity, run with the land, and insure to the benefit of and be binding upon the Declarant, each Unit Owner, each mortgagee in whose favor a mortgage shall be granted with respect to any Unit and any other person having an interest in the Condominium Property, or any part thereof, and the respective heirs, devisees, administrators, executors, personal representatives, successors, and assigns of any of the foregoing persons:

(A) Encroachments

If by reason of the construction, repair, restoration settlement or shifting, or partial or total destruction and rebuilding of the building or improvements constituting a part of the condominium property, any part of the Common Elements or another Unit or Units, or if by reason of the design or construction of any Unit it shall be necessary and advantageous to a Unit Owner to use or occupy for formal use and purposes any portion of the Common Elements consisting of unoccupied space within the building and adjoining his Unit, or if by reason of the design, construction, or rebuilding of utility systems, any pipes, ducts or conduits serving any part of the Condominium Property encroaches upon any part of any Unit or upon any part of the Common Elements, easements for the existence and maintenance of such encroachment and for the use of such space are hereby established and shall exist for the benefit of such Unit Owners and the owners of the Common Elements as the case may be, provided however that in no event shall an easement for any encroachment be created in favor of the owner of any Unit or in favor of the owners of the Common Elements if such encroachment occurred due to the willful conduct of said owner or owners.

(B) Easements for Maintenance and Alterations

Easements in favor of the Association in and over the Units and Limited Common Elements for access as may be necessary for the purpose of maintaining the Common Elements and

easements in favor of each Unit Owner over the Common Elements for access to his Unit, including, without limitation, the Easement and Reservation set forth in the Bylaws, Attachment #2.

Easements in favor of each Unit Owner to and through the Common Elements as may be necessary for the use of water, gas, sewer, power, and other utilities now or hereafter existing within the walls and for the use of any community antenna television cables and equipment installed by the Association or by an independent company to serve the Units for a fee or free of charge. Easements in favor of each Unit Owner to apply, attach, affix, maintain, repair or replace, plaster, drywall, paint wood and other finishing material to or upon the interior perimeter ceilings, floors, walls of such Unit Owners Unit and to install, construct, maintain, repair or replace non-structural interior walls and partitions within the perimeter ceilings, floors and walls of such Unit Owners Unit.

(C) Easements through Walls in Units

Easements are hereby granted to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of the Units whether or not such walls lie in whole or in part within the Unit boundaries.

(D) Easements to Others

Easements of record affecting the Condominium Property at the time this Declaration is filed for record with the Delaware County Recorder, none of which adversely affects the purpose of the Condominium Property as established by this Declaration. Such easements include, but are not limited to, that certain Right of Way and Easement made for the benefit of Columbus and Southern Ohio Electric Company, and its successors, assigns and licensees, and recorded as Deed Book 361, Page 295 of the Delaware County, Ohio Recorder's Office records.

Such easements as the Association or the Declarant, as the case may be, from time to time grants to others, including, without limitation, access easements to the City of Powell, including the proposed easements shown on the Drawings, and easements for utility purposes including but not limited to the right to install, lay, maintain, repair, and replace water lines and pipes, gas mains, telephone wires and equipment, electrical conduits and wires, in over and under any portion of the Common Elements provided that it shall be a condition to the use and enjoyment of any such easements that the grantee or grantees of any such easements shall at its or their expense restore the Common Elements to the same condition as existed prior to the installation of any such utility improvements. Each Unit Owner and his respective mortgagees by acceptance of a deed conveying such ownership interest or a mortgage encumbering such ownership interest, as the case may be, hereby irrevocably appoints the Association or the Declarant, as the case may be, as his Attorney in fact coupled with an interest, and authorizes, directs, and empowers such attorney, at the option of the attorney, to execute acknowledge and record for and in the name of such Unit Owner and his mortgagees such easements or other instruments as may be necessary to effect the foregoing.

(E) Deeds and Mortgages Subject to Easements

Each conveyance of a Unit and each mortgage with respect to any Unit shall be subject to and have the benefit of (as the case may be) each of the easements herein provided in the

same manner and to the same extent as though such easements were expressly provided for and fully set forth in the deed of conveyance or mortgage (as the case may be) or reference to such easements.

(F) *Damage Resulting from Exercise of Easements*

All damage caused to the Condominium Property or the property of any Unit Owners as a result of any act or work performed pursuant to the authority granted or reserved or as a result shall be repaired, replaced or corrected as necessary promptly by the person performing the action and by the grantee or holder of the easement being exercised, at the cost and expense of such person so that any such Condominium Property or other property so damaged will be restored or replaced to the condition in which it existed immediately prior to its damage.

13. PURPOSES OF CONDOMINIUM PROPERTY; COVENANTS AND RESTRICTIONS AS TO THE USE AND OCCUPANCY

The following covenants, restrictions, conditions and limitations as to the use and occupancy of the Condominium Property, which shall run with the land, shall be binding upon each Unit Owner, his heirs, tenants, licensees and assigns.

(A) *Purpose of the Condominium Property*

The purpose of the Condominium Property and of the Units and facilities situated therein are for non-residential office and/or storage use. Office Units shall be used as commercial offices and, if applicable, storage facilities. Storage Units shall be used strictly for storage and for no other purpose, except that Declarant may use any Units owned by the Declarant as model Units for the sale and/or leasing of such Units and other Units owned by the Declarant and for sales offices.

(B) *Obstruction of Common Elements*

There shall be no obstruction of the Common Elements nor shall anything be stored on any part of the areas outside the buildings or Units. Nothing may be stored which creates a hazardous, dangerous or unsafe condition or violates any applicable codes, rules or regulations.

(C) *Changes in appearance and alterations in the Common Elements outside the buildings.*

No changes shall be made in the appearance of any part of the Common Elements, including without limitation the material constituting the exterior and interior fascia of the building and the color of the paint thereon without the prior written consent of the Declarant or the Association, as the case may be. This restriction shall not apply to the making of repairs and replacements, painting and similarly maintaining the restoring the improvements on the land in and to the condition, which they were in and the appearance they had at the time this Declaration was filed for record.

(D) Signs, Etc.

Except for signage installed by Declarant for the Club House and Office Units, no sign, (including "for sale" signs) awning, canopy, shutter, screen, radio or television antenna, or anything else shall be displayed from affixed to, or placed upon the exterior walls, doors, or roofs of the building, or from, to or upon any other part of the Common Elements outside the buildings without the written permission of the Declarant or the Association or its representative as designated by the management agreement, as the case may be.

(E) Limited Common Elements

The Limited Common Elements shall not be altered, decorated, landscaped, or adorned in any manner contrary to such rules as may be established therefore, nor shall they be used in any manner other than their obviously intended purposes without the prior written consent of the Association or the Declarant, as the case may be.

(F) Alterations of the Common Elements

No alterations, changes, removal, additions, or improvements shall be made to any part of the Common Elements (including the exterior walls, doors or roofs of the building) unless approved by the Declarant or the Association.

(G) Impairment of structural integrity of buildings

Nothing shall be done in any Unit or in, or to the Common Elements which will impair the structural integrity of the building or which would structurally change the building.

(H) Hazardous Uses and Waste

Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of the buildings or contents thereof. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance of the building, or which would be in violation of any law. No waste of any of the condominium property will be committed.

(I) Impairment of Easements

The use and enjoyment of the easements herein if any created, provided for, or referred to shall not be impaired without first obtaining the written consent of the Association or the Declarant, as the case may be, and of any other person, firm or corporation for whose benefit such easement exist.

(J) Interference with use of Common Elements

The Common Elements and every part thereof shall be used in such manner as not to interfere with, restrict or impede the use thereof by others entitled to the use thereof and in accordance with this Declaration the Bylaws and the rules.

(K) *Animals and pets*

No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property immediately.

(L) *Quiet Hours; Nuisances*

Quiet hours shall be observed by any Unit Owner and any Person that enters upon or uses any portion of the Condominium Property during the hours from 10:00 p.m. (Eastern Time) and 8:00 a.m. (Eastern Time); accordingly, no such activity shall occur during such times that unreasonably causes or permits noise or sound to be heard or detected outside of the Condominium Property. Each Unit Owner shall ensure that all exterior doors to such Unit Owner's Unit shall be closed during the hours from 10:00 p.m. (Eastern Time) and 8:00 a.m. (Eastern Time) other than temporary openings for purposes of exiting or removing personal property from a Unit. No Unit Owner shall cause nor permit any Person who is a user of any Unit or the Condominium Property or an invitee, licensee, contractor, tenant, of such Unit Owner to operate any unmuffled engines during the hours from 9:00 p.m. (Eastern Time) and 8:00 a.m. (Eastern Time). Additionally, no noxious or offensive activity, which shall be determined in the sole discretion of the Board or the Declarant as the case may be, shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently which may be or become an annoyance or nuisance to the other Unit Owners.

(M) *Laundry or rubbish in Common Elements*

No clothes, sheets, blankets, or laundry of any kind shall be hung out or exposed in any part of the Common Elements. The Common Elements shall be kept free and clear of garbage, rubbish and debris and other unsightly material.

(N) *Prohibited Activities*

Other than in the construction and completion of the permanent improvements to be located on the Condominium Property, no painting of any type or nature shall be permitted on any portion of the Condominium Property. No welding, fusing or brazing of any metals involving open flames or arcing of metals shall be permitted on any portion of the Condominium Property. No overnight stays or installation of sleeping accommodations shall be permitted on any portion of the Condominium Property. Heavy maintenance or repairs may not be performed in or around the Condominium Property. No Unit or any portion of the Condominium Property shall be used as: (i) a massage parlor; (ii) a facility for the sale or paraphernalia for use with illicit drugs; (iii) a facility for the sale or display of pornographic material (as determined by community standards for the area in which the Condominium Property is located); (iv) an off-track betting parlor; or (v) a facility for any other activity that is prohibited by the Board. No manufacturing, retail selling or construction may be performed in or around the Storage Unit buildings. There shall be no unattended outside parking and no overnight parking on any of the Condominium Property for periods in excess of seventy-two (72) hours. The Condominium Property is a commercial condominium and shall not be used for providing overnight accommodations, as residential housing or to facilitate transient living. No Unit or any portion of

the Condominium Property shall be used for the collection or holding of refuse, rubbish, hazardous substances, or substances that would or could cause environmental hazards, excepting for within any exterior dumpsters located upon the Common Areas that are for the mutual benefit of the Unit Owners.

(O) Rentals

No Unit shall be rented for transient, temporary housing or hotel purposes or any residential rental. Other than the forgoing obligations the Unit Owners of the respective Units shall have the right to lease the same, provided that the lease is made subject to the covenants and restrictions in this Declaration and the Bylaws and shall be governed by the rules of the Association. Declarant shall not lease or rent any Units for transient or hotel purposes.

14. THE ASSOCIATION

The Association has been, or will be formed, to constitute the "Unit Owners' Association", as that term is defined in ORC § 5311.01(DD). Each Unit Owner shall be a member of the Association which shall be established for the administration of the Condominium Property. The Association shall serve as the governing body for all of the Unit Owners for the protection, improvement, alteration, expansion, augmentation, disposal, divestment, re-description, maintenance, repair, replacement, administration and operation of the Condominium Property, the assessment of expenses, payment of losses, disposition of hazard insurance proceeds received by the Association, and other matters as provided in this Declaration, in the Articles, in the Bylaws, and the rules and regulations adopted from time to time by the Association (herein referred to as the rules and regulations) (herein the Declaration, the Articles, the Bylaws and the rules and regulations of the Association, all as may be amended from time to time, sometimes collectively referred to herein as the "Governing Documents") or if not provided in the Governing Documents, as provided in the Act. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Unit Owners in accordance with the provisions of the Governing Documents or the Act, if applicable. Each Unit Owner shall be a "Member" of the Association as soon and so long as he shall be a Unit Owner. Such membership shall automatically terminate when a Unit Owner ceases for any reason to be a Unit Owner, and the new Unit Owner shall likewise automatically succeed to such membership in the Association. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Unit to which it is appurtenant (and then only to the purchaser involved in such sale) or by intestate succession, testamentary disposition, foreclosure of a Mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the person to whom such fee simple title is transferred). Any attempt to make a prohibited transfer of a membership will be void and will not be recognized by or reflected upon the books and records of the Association. In the event the Unit Owner of any Unit should fail or refuse to transfer the membership registered in his name upon the sale of such Unit Owner's Unit to the purchaser or other valid transferee of such Unit Owner's Unit, the Association shall have the right to enter a transfer upon the books of the Association and issue a new membership to the purchaser or other valid transferee and thereupon the old membership outstanding in the name

of the seller or prior Unit Owner shall be null and void as though the same had been surrendered.

(A) Interim Administration by Declarant

Except as provided in the Bylaws, or elsewhere in the Declaration, the Declarant, unless it so chooses to relinquish the rights to the Association Board of Directors at an earlier date, shall be authorized either through its own actions or persons designated by it, to appoint and remove members of the Board of Directors and other officers of the Association, and to exercise the powers and responsibilities otherwise assigned by law or this Declaration or Bylaws to the Association, the Board of Directors or other officers. Such authorization, unless sooner terminated by the Declarant, shall extend from the date of the establishment of the Association until the earlier of five (5) years from the date the Association is established (subject to extension of five (5) years from the date of any supplemental declaration in the event that any additional units are added as provided for in Section 23 hereof), or sixty (60) days after the sale and conveyance of all Units to purchasers in good faith for value. Unless the Association shall have sooner met to elect members of the Board of Directors as provided in the Bylaws, within sixty (60) days after the expiration of any period during which the Declarant exercises control under this paragraph, the Association shall meet and elect all members of the Board of Directors and all other officers of the Association.

(B) Board of Directors

The board of directors of the Association ("Board of Directors") shall be those three (3) persons from time to time designated and elected pursuant to the Bylaws. The Board of Directors shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, by the Bylaws, by the Association's governing documents and by this Declaration upon the Association.

(C) Board's Determination Binding

Except to the extent that the terms of this subsection 14(C) may be prohibited by law, in the event of any dispute or disagreement between any Unit Owners relating to the Condominium Property, or any questions or interpretation or application of the provisions of the Governing Documents, the determination thereof by the Board shall be final and binding on each and all of such Unit Owners.

(D) Action by Owners

To the extent permitted by the Act, all actions required to be taken by the Unit Owners, acting as a Unit Owners Association for the Condominium Property, shall be taken by the Association acting as such Unit Owners Association, by and through its directors and officers, such actions to include, without limitation, adoption or ratification of the Bylaws and rules and regulations for the Condominium Property created hereby.

(E) Additional Provisions in Articles, Bylaws and Rules and Regulations of the Association. The Articles, Bylaws and rules and regulations of the Association may contain any provision not inconsistent with the Act or other applicable law or with this Declaration.

(F) Other Voting Provisions

All other provisions not provided for herein regarding the voting of Unit Owners and the meetings of Unit Owners, the quorum necessary to vote at any such meeting, proxies and all other matters not specifically provided for herein shall be as provided in the Bylaws of the Association; provided, however, that no provision in the Bylaws shall be inconsistent with this Declaration, any required provisions of the Act and any other applicable law.

(G) Transferability of Ownership Interest Only with the Consent of the Board and In Conjunction with Transfer of Unit. All Ownership Interests shall be transferable only as provided in this Declaration and with written consent of the Board (such consent not to be unreasonably withheld) and in compliance with such regulations as the Board shall adopt from time to time and such Ownership Interest shall be transferable only in conjunction with the transferor's simultaneous transfer of his or its Unit within the Condominium Property all subject to such reasonable transfer fees and charges as the Declarant or the Board, as applicable, shall establish. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale or other transfer of the Unit to which it is appurtenant (and then only to the purchaser or other transferee involved in such sale or transfer) or by intestate succession, testamentary disposition, foreclosure of a mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the person to whom such fee simple title is transferred). Any attempt to make a prohibited transfer of an Ownership Interest will be void and will not be recognized by or reflected upon the books and records of the Association.

(H) Prohibited Transfer of Ownership Interest

Any purported transfer or conveyance of any Ownership Interest in contravention of the Governing Documents shall be void and of no force and effect. Further, if the Association is required to incur expenses (including but not limited to attorneys' fees) to enforce this restriction, such Unit Owner shall be liable to the Association for all such expenses.

(I) Suspension and Termination of Membership

The Board (upon the recommendation of the safety committee or such other committee which the Board deems appropriate) shall take such disciplinary action and adopt such disciplinary regulations which it deems appropriate including suspension or termination of membership in the Association by any Unit Owner, occupant or other Person.

(J) Service of Process

The person to receive service of process for the Association shall be legal counsel for the Association, from time to time. The initial person to receive service of process is Todd Ernsberger, Onda, LaBuhn, Rankin & Boggs Co., LPA 35 North Fourth Street, Suite 100, Columbus, Ohio 43215.

15. DUTIES OF THE ASSOCIATION

(A) *Management*

The Association shall manage the Condominium Property and the affairs of the Condominium with the right, however to delegate its obligations as hereinafter provided.

(B) *Changes by Necessity*

If changes, modifications, or alterations should found to be necessary to eliminate or correct construction defects to provide alternate energy, or utility services or comply with new codes and regulations or for other similar or dissimilar reasons within the logical intent of this subparagraph, the Association may cause or authorize such changes, or modifications and/or alterations to be made to the Common Elements as are reasonable necessary by the affirmative vote of a majority of the Board.

(C) *Common Elements*

Except as otherwise expressly provided herein the Association shall maintain and keep the Common Elements in a state of good working order, condition and repair, in a clean neat safe, and sanitary condition, and in conformity with all laws, ordinances and regulations applicable to the Common Elements, by promptly properly and in a good and workmanlike manner, making all repairs, replacements, alterations and other improvements necessary to comply with the foregoing, the obligations herein described shall include without limitation:

1. Maintaining, planting, seeding, re-seeding, fertilizing cutting and trimming all of the lawns comprised within the Common Elements.
2. Performing all of the obligations imposed a landlord under Chapter 5321 of the Ohio Revised Code (and under the applicable laws, ordinances and regulations) to the extent such obligations relate to Common Elements and to the extent such obligations do not relate to the Limited Common Elements which Unit Owners are obligated herein to perform.

(D) *Units and Common Elements in Units*

Except as may otherwise be expressly provided herein the Association shall keep and maintain in a state of good condition and repair those parts of each Unit which contribute to the support of the building, excluding however the surfaces of interior walls, ceilings and floors by making all repairs replacements, alterations and other improvements necessary to comply with the foregoing promptly, properly and in a good workmanlike manner. In addition, the Association shall maintain, repair, replace, alter and improve (in the same manner) all conduit, ducts, plumbing, wiring, equipment, and other facilities for the furnishing of utility services which are used by or for are common to two or more Units even though such facilities are located within the boundaries of a Unit. In a Unit or Limited Common Elements appurtenant to a Unit become impaired in a neglected state or otherwise in need of repair or restoration, and if the Unit Owner thereof fails after notice from the Association to repair, restore or otherwise correct the condition the Association may but shall not be obligated to repair, restore or otherwise correct the condition. The Association shall charge and assess the cost and expense thereof to the Unit Owner who was obligated to perform the work.

(E) General Duties

The Association shall do any and all other things necessary and appropriate to carry out the duties and obligations reasonably intended to be required of it under this Declaration and Chapter 5311.

(F) Delegation of Authority (Managing Agent)

The Association may but shall not be required to delegate all or any portion of its authority and responsibilities to a manager, managing agent or management company. Such delegation may be by a management contract which shall provide for the duties to be performed by the managing agent and for the payment to the managing agent of a reasonable compensation as a common expense which management agreement shall be substantially similar to the Management Agreement attached to the Bylaws, Attachment #3. Upon the expiration of each management agreement the Association may renew said management agreement or enter into a different agreement with the same or different managing agent. Any agreement for management of the Condominium Property or any contract providing for services to be performed by the Declarant for the Association shall provide for termination by the Association with or without cause and without payment of a termination fee or penalty after such time after Declarant turns over control of the Association as provided for in Section 14(A) hereof on thirty (30) days written notice.

16. DUTIES OF UNIT OWNERS

Each Unit Owner shall comply with the following:

(A) Maintenance and repair

Except as may be otherwise expressly provided herein maintain, repair and replace at his expense in good working order, condition and repair all Limited Common Elements designated for his exclusive use including all doors and fixtures which are appurtenant to his Unit. Maintain, repair and replace, at his expense, in good working order, condition and repair all electrical fixtures, utility pipes, conduits and lines, plugs, connections and fixtures permanently affixed to the realty, and all heating, cooling and ventilating equipment, Units and installations and all ducts, controls filters and parts thereof located within his Unit. He shall keep at all times his Unit in a clean neat and sanitary condition, and in conformity with all laws, ordinances, and regulations applicable to his Unit or Units. Maintain, repair or by reason of breakage, damage, malfunction and/or ordinary wear and tear comply with the above mentioned. Maintain repair and replace at his expense all portions of the Condominium Property which may be damaged or destroyed by reason of his own act or neglect, the act or neglect of any Unit Owner of his Unit or Units, or the act or neglect of any invitee, licensee or guest of such owner. Notwithstanding the foregoing obligation of the Unit Owner the Association (or other Unit Owner in respect to his own Unit) may but shall not be obligated to repair and replace the property damaged or destroyed by reason of the act or neglect of a Unit Owner or their invitee, licensee or guest, and charge and collect from such Unit Owner the cost and expense paid or incurred in making any such repair or replacement. If the repair or replacement is made by the Association, the cost and expense thereof shall be a lien against the Unit Owner's ownership Interest which the Association may assert and collect in the same manner as the Association

may assert and collect a lien against the Unit Owner's Ownership Interest for nonpayment of his share of assessments for Common Expenses. The right herein of the Association to assert and collect upon a lien shall not be exclusive but shall be in addition to all other rights and in equity, for recovery of the cost and expense so incurred. All of the work required of the Unit Owner shall be performed by him promptly, properly, and in good workmanlike manner, using first-class materials of equivalent or better quality than those originally installed or incorporated into the Condominium Property, and using competent and qualified labor.

(B) Report Defects

Report promptly to the Association or Managing Agent of The Association, the need for any maintenance or repair to any portion of the Condominium Property which the Association is obligated to maintain or repair pursuant to this Declaration or the Bylaws.

(C) Non-disturbance of Others

Unit Owners shall perform his duties and responsibilities in such manner so as not to unreasonable disturb other Unit Owners.

(D) Pay for Utilities

Unit Owners shall pay all costs for utility services (such as, without limitation Electric and Gas service).

(E) Comply with this Declaration

Faithfully and promptly pay all charges and assessments made against him or his Ownership Interest pursuant to this Declaration; and faithfully observe, fulfill and perform all of the covenants and restrictions herein contained and all other obligations of a Unit Owner as set forth (or intended by this Declaration, the Bylaws, the Rules, and Chapter 5311.

(F) Deeds, etc.

Include both his interest in the Unit and his corresponding percentage of interest in the Common Elements in every deed, mortgage, lease or other instrument affecting title to his Ownership Interest, it being the intention hereof to prevent any severance of such combined ownership. In furtherance of the foregoing responsibility and obligation and not in limitation thereof of any deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taking to include the interest so omitted even though the latter is not expressly mentioned or described therein.

17. CONSTRUCTION DEFECTS

The obligation of the Association and of the Unit Owners to maintain, repair and replace the portions of the Condominium Property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction of the Condominium Property. The undertaking of maintenance repair or replacement by the Association or Unit Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved.

Notwithstanding the fact that the Association and/or any Unit Owner may be entitled to the benefit or any guarantee or warranty of material or workmanship furnished by any construction trade responsible for any construction defects, or to benefits under policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of construction guarantees or insurance coverage shall not excuse any delay by the Association or any Unit Owner in performing its or his respective obligations hereunder.

18. ASSESSMENTS: COMMON EXPENSES AND COMMON PROFITS

(A) General

Assessments for the Common Expenses shall be made in the manner provided herein and in the Bylaws.

(B) Common Expenses

Unit Owners share of the Common Expenses shall be assessed against, the Unit Owners by the Association in accordance with the percentages of interest in the Common Elements appertaining to the respective Units of the Unit Owners. Every Unit Owner shall pay his proportionate share of assessments for Common Expenses in such manner and at such times as provided herein and in accordance with the Bylaws as set forth by means of a designated maintenance fee. Notwithstanding anything to the contrary contained herein, neither the Association nor the Declarant, as the case may be, shall be obligated to pay Common Expenses or fees for any Unit owned by the Association or the Declarant, unless the Unit is leased to a third party.

(C) Non-Use of Facilities

No Unit Owner may exempt himself from liability for assessments levied against him by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit.

(D) Dispute as to Common Expenses

Any Unit Owner who believes that improper assessments levied against him or his Unit, by the Association, may bring an action in the Common Pleas Court of Delaware County, Ohio for the discharge of all or any portion of such Assessments.

(E) Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses

Where the mortgagee of a first mortgage of record acquires an Ownership Interest in a Unit as a result of foreclosure of the first mortgage or of the acceptance of a deed in lieu of foreclosure, such mortgage or of the acceptance of a deed assigns, shall not be liable for the assessments levied against Ownership Interest in such Unit by such mortgagee, its successors and assigns. Any funds received on the judicial sale of the Unit in excess of the first mortgage lien, the court costs, and the real estate taxes shall, however, be paid over to the Association, to the extent of the unpaid assessment due to the Association. The owner or owners of a Unit prior to the judicial sale thereof or to the conveyance in lieu of foreclosure shall be and remain

personally and primarily liable, jointly and severally, for the assessments against the judicially sold or voluntarily conveyed Unit up to the date of the judicial sale or conveyance, but any unpaid part of the assessments shall be deemed to be Common Expenses and shall be assessed and levied against all of the Unit Owners, including the new owner of the Unit foreclosed.

(F) *Liability for Assessments Upon Voluntary Conveyance*

In voluntary conveyance of an Ownership Interest the grantee of the Ownership Interest shall be jointly and severally liable with the grantor for all unpaid assessments levied by the Association against the grantor and his Unit prior to the time of the grant or conveyance, without prejudice, to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such prospective grantee shall upon written request delivered to the President or Secretary of the Association be entitled to a statement from the Board setting forth the amount of all unpaid assessments due the Association with respect to the Ownership Interest to be conveyed, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments which become due prior to the date of the making of such request if the same are not set forth in such statement.

19. INSURANCE AND CASUALTY LOSSES

(A) *Insurance*

The Association shall obtain the following insurance:

(a) Insurance for all of the improvements constituting the Common Elements (including all personal property owned in common and including all Limited Common Facilities) against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard; such insurance may have a deductible clause in a reasonable amount (\$1,000.00 shall be considered a reasonable amount at the time this Declaration is filed for record); and the vandalism insurance may have a deductible clause in any amount selected by the Association;

(b) insurance against liability for personal injury or property damage arising from or relating to the Common Elements in an amount of at least \$1,000,000.00 single limit as respects both bodily injury and property damaged; and

(c) insurance against liability for personal injury or property damage arising from or relating to the Condominium Property (that is the Units as well as the Common Elements) in an amount of at least \$1,000,000.00 single limit as respects both bodily injury and property damage; but such insurance to protect only the Association, the Managing Agent of the Condominium (and its agents, employees and contractors), the members of the Board and the Association's contractors, agents and employees.

The Association may obtain such other insurance as it deems desirable, including, without limitation, insurance to cover the Association's indemnity under the Bylaws, debris removal insurance, fidelity bonds, and insurance to provide some relief from monthly assessments on behalf of a Unit Owner whose Unit is rendered uninhabitable by a peril insured against. Premiums for all such insurance and bonds shall be a common expense. All such insurance

coverage obtained by the Association shall be written in the name of the Association (and/or of the Managing Agent of the Condominium) as Trustee for the Association, for each of the Unit Owners, and for the holders of mortgages upon the Ownership Interests, as their interests may appear.

(B) General Provision Governing Insurance

All insurance affecting the Condominium Property shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of Ohio and holding a rating of "A-" or better by Best's Insurance Reports.

(b) All policies shall be for the benefit of the Association, the Unit Owners, and their mortgagees as their interests may appear;

(c) provisions shall be made for the issuance of a certificate of insurance to each Unit Owner and his first mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular Unit Owner's Ownership Interest.

(d) The original of all policies and endorsements thereto shall be deposited with the Insurance Trustee or Managing Agent.

(e) Exclusive authority to adjust losses under policies hereafter in force on the Common Elements shall be vested in the Board; provided; however; that no first mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(f) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees.

(g) Each Unit Owner may obtain additional insurance at his own expense subject, however, to the following restrictions and conditions:

(1) No Unit Owner shall separately insure any part of the Condominium Property against loss by fire or except for the contents of his Unit or Units,

(2) No Unit Owner shall maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all Unit Owners and their mortgagees, may realize under any insurance policy which the Association may have in force on the Condominium Property at any particular time;

(3) The insurance which is carried by a Unit Owner shall be (I) such personal liability insurance as he may desire, (II) such insurance upon the Unit Owner's personal property as he may desire, and (III) casualty insurance upon betterments and improvements made by the Unit Owner to his Unit, such insurance to be limited to the type and nature of coverage often referred to as "Tenant improvements and betterments" and to provide expressly that it shall be without contribution as against the casualty insurance purchased by the Association;

(4) If any diminution in insurance proceeds on insurance purchased by the Association results from the existence of insurance purchased by a Unit Owner for the same casualty and loss as that covered by a policy purchased by the Association, then said Unit Owner shall be liable to the Association to the extent of any such diminution and/or loss of proceeds; and all proceeds of the Unit Owner's policies which were brought into proration with the policies of the Association shall be due and payable directly to the Association, it being

agreed by the Unit Owner that his policies were purchased in trust and for the benefit of the Association.

(5) Each policy of insurance obtained by any Unit Owner shall contain, if obtainable, a clause or endorsement providing in substance that the insurance shall not be prejudiced if the insureds have waived right of recovery from any person or persons prior to the date and time of loss or damage, if any;

(6) Each Unit Owner who obtains an individual insurance policy covering any portion of the Condominium Property (excluding policies restricted to personal property belonging to such Unit Owner) shall file a copy of each such individual policy with the Secretary of the Association with thirty (30) days after purchase of such insurance.

(h) It shall be the responsibility of each Unit Owner at his own expense to provide, as he sees fit, title insurance on his Ownership Interest, homeowner's liability insurance for his Unit, shelter insurance during any period of restoration of damage to a Unit Owner's Unit, theft and other insurance covering improvements, betterments and personal property damage and loss. The Association shall have no responsibility or obligation to insure such matters or against such risks for or on behalf of the Unit Owners. In allocating among the Unit Owners any insurance proceeds received by the Association, the Association may adjust the proportionate share of such proceeds allocable to a Unit to reflect the matters which should be paid for by (and insured by) the Unit Owners.

(i) The Association shall conduct an annual Insurance review which may at the option of the Association include a replacement cost appraisal without respect to depreciation of all improvements constituting the Common Elements by one or more qualified persons.

(j) The Association shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Association, its Manager or the Unit Owners.

(2) That the master policy on the Common Elements cannot be canceled, invalidated or suspended on account of any one or more individual Unit Owner;

(3) That the master policy on the Common Elements cannot be canceled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized manager without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, any Unit Owner or mortgagee;

(4) That any "other insurance" clause in the master policy excluding individual Unit Owner's policies from consideration;

(5) That notwithstanding any provision of any policy which gives the carrier an option to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the case of removal of the Condominium Property from the provisions of Chapter 5311 as provided for in this Declaration; and

(6) That the coverage of any policy shall not be terminated for nonpayment of premiums without at least ten (10) days' written notice to each holder of a first mortgage upon a Unit of which such carrier or carriers have written notice.

(C) Insurance Trustee

(a) All insurance policies purchased by and in the name of the Association shall provide that proceeds covering property losses shall be paid jointly to the Association and a Trustee which shall be a banking institution with offices in Delaware County, Ohio having trust powers and at least Fifty Million Dollars (\$50,000,000.00) total capital and surplus, selected by the Board, which Trustee is herein referred to as the Insurance Trustee. Immediately upon the receipt by the Association of such proceeds, the Association shall endorse the instrument by means of which such proceeds are paid and deliver or cause to be delivered such instrument to the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. The Insurance Trustee has no obligation to inspect the property to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.

(b) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and delivered to it and to their mortgagees and the Association, in the shares described below, but such shares need not be set forth in the records of the Insurance Trustee.

(c) Proceeds of insurance policies received by the Insurance Trustee shall be disbursed as follows:

(1) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, all expenses of the Insurance Trustee shall be first paid and the remaining proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such expenses of the Insurance Trustee and the cost of the repairs and reconstruction shall be disbursed to the Unit Owners in accordance with their percentage interests in the Common Elements. If there is a mortgage lien or liens on an Ownership Interest, the remittance to the Unit Owners thereof and their mortgagees shall be paid to them as their interests may appear. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(2) If it is determined that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as therein provided.

(3) Any and all disbursements of funds, whether such funds consist of insurance proceeds, special assessments, sales proceeds or any combination thereof, to be made by the Insurance Trustee for any purpose whatsoever, shall be made pursuant to and in accordance with a certificate of the Association signed by the President or Vice president and by the Secretary or an Assistant Secretary. If the damage or destruction is not to be repaired or reconstructed, the certificate shall so state and shall direct that disbursements be made by the Insurance Trustee as by law provided.

If the damage or destruction is to be repaired or reconstructed, the certificate shall direct the Insurance Trustee to make disbursements to those persons and in such amounts as may be specified therein and according to such procedures, in such amounts, and upon and pursuant to such lien waivers, statutory affidavits, applications, written authorizations submitted to it by architect or other person named therein as having been employed by the Condominium Association to supervise to make such repairs or reconstruction; or other documentation as may be specified in the certification.

The Insurance Trustee shall not incur any liability to any Unit Owner, mortgagee or other person for any disbursements made by it pursuant to and in accordance with any such certificates or written authorizations.

(D) Damage and Destruction

(a) Adjustment at Loss; Determination of Cost

Immediately after the damage or destruction by fire or other casualty to all or any part of the Condominium Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Such costs may include professional fees and premiums for such bonds as the Board deems necessary. Repairs or reconstruction, as used in this subparagraph, means repairing or restoring the Common Elements to substantially the same condition in which they existed prior to the fire or other casualty. Each Unit Owner shall be deemed to have delegated, and does delegate upon acquisition of title to an Ownership Interest, to the Board or its agent, his right to adjust with insurance companies all losses under the Casualty Insurance policies in furtherance of this delegation, the Board, and its authorized agents, is and are hereby appointed the attorney-in-fact for all Unit Owners to negotiate loss adjustment on any and all of said policies.

(b) Responsibility for Restoration

In the event the Common Elements, or any part thereof, shall be damaged or destroyed, the Association shall promptly cause the same to be restored, in a good and workmanlike manner, substantially in accordance with the Drawings submitted and made part of this Declaration.

(c) Election Not to Restore After Damage or Destruction; Sale of Condominium Property

Immediately after the occurrence of any damage or destruction to all or any part of the Common Elements, the Board or Managing Agent of the Association shall cause to be prepared such working drawings and specifications as are necessary to obtain thereon bids from two or more reputable and bondable contractor to restore the Common Elements to their condition immediately before the damage or destruction. If the lowest bid of a reputable and bondable contractor is more than fifty percent (50%) of the reasonable estimate of the cost of so reconstructing all of the improvements on the Land constituting the Common Elements (that is, assuming a complete and total destruction of all such Common Elements) then the Board shall forthwith, upon receipt of the bids, call a meeting of all of the Unit Owners to consider electing not to restore. If the Board fails to proceed in the manner hereinabove prescribed within sixty (60) days after the occurrence of a casualty, any Unit Owner may cause such working drawings and specifications to be prepared, solicit bids, call the meeting of Unit Owners, and conduct the same. If the extent of the damage is as great as aforesaid, if all of the foregoing damage is done within ninety (90) days of the occurrence of the damage, and if, further, Unit Owners by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) or more of the voting power of the Association elect not to repair and restore such damage at a meeting called to consider such matter, then the repairs and restoration shall not be made, this Condominium shall terminate, and all of the Condominium Property (exclusive of the improvements and betterments within Units belonging to the respective Unit Owners), shall

thereafter be subject to an action for sale as upon partition of the suite of any Unit Owner. In the event of any such sale (or a sale of the Condominium Property after such election by agreement of all Unit Owners) the net proceeds of the sale together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective percentages of interest in the Common Elements. No Unit Owners, however, shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

(E) *Repair and Reconstruction*

(a) If the damage or destruction for which the insurance proceeds are paid to the Insurance Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without a vote of the members, levy a special assessment against all Unit Owners in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Such assessments shall be in proportion to the Unit Owners' percentages of interests in the Common Elements.

(b) Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be repaired or reconstruction, shall be disbursed as provided for by the Board or Committee as appointed.

(c) the Association shall restore or cause to be restored all damages to or destruction of the Common Elements promptly, and in a good and workmanlike manner, substantially in accordance with the Drawings and as such Common Elements existed immediately before the damage or destruction.

(F) *Minor Repairs*

(a) If the aggregate amount of the estimated costs of repairing any damage to the Common Elements is less than Fifteen Thousand Dollars (\$15,000.00), the instrument (or draft) by means of which any insurance proceeds are paid shall be endorsed by the Insurance Trustee and delivered to the Association and the damage shall be repaired and the proceeds shall be used as the Board of Managing Agent deems necessary.

(b) The Board (or Managing Agent) shall cause the damaged Common Elements to be restored promptly and in a good and workmanlike manner to the condition in which they existed immediately before the occurrence of the damage and shall use the insurance proceeds to defray the cost of such work. If the cost is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Elements or treated as Common Profits. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess may be provided either by means of a special assessment levied by the Board against all Unit Owners in proportion to each Unit Owner's percentage of interest in the

Common Elements, or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of Common Elements, as the Board in its sole discretion may determine.

(G) Waiver of Subrogation

(a) Each Unit Owner as a condition of accepting title and possession, or either one of such, of a Unit and the Association agree, provided such agreement does not invalidate or prejudice any policy of insurance, that in the event the Condominium Property (including the Units therein), any part or parts of the Condominium Property, or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance of any Unit Owner or the Association and the lessees and sublessees of anyone of them, the rights, if any, of any party against the other, or against the employees, agents, licensees or invitees of any party, with respect to such damage or destruction and with respect to any loss resulting therefrom are hereby waived to the extent of the coverage of said insurance.

20. CONDEMNATION

(A) General

In the event of a Taking as defined in Section 1(X) above, each Unit Owner shall be entitled to notice thereof. Each Unit Owner hereby designates and appoints the Association and any duly authorized agent of the Association, as his exclusive agent to handle, negotiate, settle and conduct all matters, proceedings and litigation incident to such Taking; and the Association shall have the power and authority to do so. Any award made for such Taking shall be payable to the Association if such award amounts to less than Fifteen Thousand Dollars (\$15,000.00) and to the Insurance Trustee if such award amounts to Fifteen Thousand Dollars (\$15,000.00) or more. Unless otherwise provided by law at the time of such Taking, any award made therefore shall be disbursed by the Association or the Insurance Trustee, as the case may be, as hereinafter provided.

(B) Common Elements

(a) If a Taking takes only Common Elements and not a Unit, The Association shall be deemed to have determined to repair, restore and, if reasonable feasible and desirable, replace any Common Elements taken, remaining and/or damaged in accordance with plans prepared at the instance of the Association unless Unit Owners having at least seventy-five percent (75%) of the total vote of the Association shall decide by vote, at a meeting of the Unit Owners of the Association called for that purpose and held within sixty (60) days after the Taking, not to restore, repair and replace. The Board shall make arrangements for any restoration, repair and/or replacement in accordance with the plans prepared by the Association. The Association or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award in the same manner as they are required to disburse insurance proceeds where damage or destruction to the Common Elements is to be repaired or constructed, subject, however, to the determination of any court of competent jurisdiction that a disproportionate distribution be made, and subject, further, to the right hereby reserved to the Board to hire a real estate

appraiser to recommend (or recommend against) a disbursement of the award (after payment of all costs incident to the repair, restoration and/or replacement and all expenses of the Insurance Trustee and appraiser) to Unit Owners or any one or more of them in amounts disproportionate to their percentages of undivided interest in the Common Elements, which disproportionate amounts shall correspond with the disproportionate damages sustained by the Unit Owners or any one or more of them. If the appraiser should recommend a disproportionate distribution, he shall state the manner in which he believes the distribution, he shall state the manner in which he believes the distribution should be made. The Board shall use reasonable judgment in deciding whether to hire an appraiser to make such recommendations. If an appraiser is hired, a copy of his recommendation shall be given (in the manner of giving notices to Unit Owner) to all Unit Owners and neither the Insurance Trustee nor the Association, shall make any distribution of the award within twenty (20) days following the delivery of copies of the recommendation to the Unit Owners nor within any period of time thereafter after the recommendation may be subject to or is being arbitrated. Within twenty (20) days after a copy of the recommendation has been mailed (or otherwise delivered) to the Unit Owners, any Unit Owner may give written notice to the Association and the Insurance Trustee that he objects to the recommendation. Any objection shall be submitted to and settled by arbitration in accordance with the Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The proper parties before the Arbitration shall be the Unit Owners who have given notice of their objection to the recommendation and the Association or its authorized agent who shall act on behalf of all non-objecting Unit Owners. If any objection is not submitted to arbitration as herein provided within thirty (30) days after written notice of the objection was given to the Association, then any Unit Owner shall have given notice of objection shall be deemed to have withdrawn his objection and the Insurance Trustee or the Association, as the case may be, shall distribute the award in accordance with the recommendation.

(b) If Unit Owners having at least seventy-five percent (75%) of the total vote of the Association shall decide by vote at a meeting of the Unit Owners of the Association held within sixty (60) days after the Taking, not to restore, repair, and replace the Taking of damage, then such Taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed whereupon, the Condominium shall be terminated in the manner therein prescribed, unless otherwise provided by law.

(C) Units

If the Taking includes one or more Units, or any part or parts thereof, whether or not there is included in the Taking any part of the Common Elements, then the award shall be disbursed and all related matters, including without limitation alteration of the Percentages of undivided interest of the Unit Owners in the Common Elements, shall be handled pursuant to and in accordance with the consent of all Unit Owners expressed in a duly recorded amendment to this Declaration. The Unit Owners of any Unit Taking shall be deemed to be Unit Owners for the purpose of signing such an amendment. In the event that such an amendment shall not be recorded within ninety (90) days after such Taking, the matter of what shall happen to this Condominium, the disposition of the award, and all other issues arising out of the Taking shall be submitted to the Common Pleas Court in the County of Delaware, Ohio, for resolution and determination.

21. REHABILITATION OF BUILDINGS AND OTHER IMPROVEMENTS

The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy five percent (75%) of the voting power, determine that the Condominium Property is obsolete in whole or in part, and elect to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost thereof shall be a common expense. Any Unit Owner who does not vote for such renewal and rehabilitation may elect in writing served by him on the president of the Association within five (5) days after receiving notice of such vote, to receive the fair market value of his ownership interest, less the amount of any liens and encumbrances on his Unit as of the date the vote was taken, and the amount of any liens and the date the vote was taken, and the amount of any liens and encumbrances filed or otherwise arising against his Unit during the period from the date of such vote to the date of conveyance in return for a conveyance of his Ownership Interest (subject to such liens and encumbrances) to the President of the Association as trustee for all other Unit Owners. In the event of such election by a Unit Owner to receive the fair market value of his ownership interest, such conveyance and payment of the consideration thereof, which shall be a Common Expense to the Unit Owners who have elected to renew and rehabilitate, shall be made within ten(10) days thereafter; and if such Unit Owner and a majority of the Board cannot agree upon the fair market value of such Unit, such determination shall be made by the majority vote of three appraisers, one of which shall be appointed by such Unit Owner, and the third of which shall be appointed by the first two appraisers.

22. REMOVAL FROM PROVISIONS OF CHAPTER 5311

(A) The Unit Owners by unanimous vote may elect to remove the Condominium Property from the provisions of Chapter 5311. In the event of such election all liens and encumbrances except taxes and assessments not then due and payable on all or any part of the Condominium Property shall be paid released or discharged and a certificate setting forth that such election was made shall be filed with the Recorder of Delaware, County, Ohio, and by him recorded. Such certificate shall be signed by the President of the Association, who shall certify therein under oath that all liens and encumbrances except taxes and assessments not then due and payable upon all or any part of the Common Elements have been paid, released or discharged, and shall also be signed by the Unit Owners each of whom shall certify therein under oath that all such liens and encumbrances on his Unit or Unit have been paid, released or discharged.

(B) Upon removal of the Condominium Property from Chapter 5311 to the property so removed shall be deemed to be owned in common by the Unit Owners. The undivided interest in the property owned by each Unit Owner shall be the percentage of undivided interest previously owned by such Unit Owner in the Common Elements.

(C) The removal provided for in this paragraph shall in no way bar the subsequent resubmission of the property to the provisions of Chapter 5311 in the manner provided for therein.

23. ADDITION TO CONDOMINIUM PROPERTY

(A) General

Declarant contemplates that it may construct on a part or parts of the Additional Property, additional Storage Unit Buildings that would be of substantially the same design, quality, and construction as the original buildings except for the number of Units in a particular building may not be the same. Declarant also reserves the right to designate Common Elements or create Limited Common Elements on any portion of the Additional Property. The general architectural design, the quality, the appearance and the material used in the construction of the additional buildings and the landscaping of the Common Elements surrounding the same would be substantially the same.

Portions of the Additional Property may be added to the condominium property at different times in phases. There are not limitations fixing the boundaries of these portions. Declarant reserves the right to change the design of structures and buildings to be constructed. Notwithstanding anything to the contrary contained herein, Declarant's development of all or a portion of the Additional Property shall not be mandatory but shall be the option of Declarant as provided herein. With respect to improvements, other than structures, to any portion of the Additional Property to be added to the Condominium Property, Declarant reserves the right to make such improvements as Declarant deems necessary. All or any portion of the Common Elements designated on any portion of the Additional Property may be assigned as Limited Common Elements by Declarant.

There are no limitations on the type of Units which may be created on the Additional Property and no limitations (i) to the location of improvements on the Additional Property; or (ii) to the part or parts of the Additional Property that may be added. Notwithstanding the foregoing, the Declarant contemplates that if Declarant does make such improvements it might, and it hereby reserves the right to make such reasonable changes in any of the foregoing matters as necessary or desirable in the judgment of Declarant to alleviate minor problems of construction, to comply with zoning ordinances, building code or insurance underwriting changes or requirements, to provide for servicing easements, and otherwise to develop reasonably the parts being added in harmony with the developments then existing on the lands which are then a part of this Condominium. The Units and the Common Elements upon that part or parts of the Additional Property which would be added to this Declaration would be subject to the same uses, purposes, covenants and restrictions as the Units and Common Elements herein described, all being subject as one single Condominium, to the provisions of this Declaration. In the event that Declarant constructs additional Units to any portion of the Additional Property as provided herein, the undivided interest in the Common Elements shall be allocated as set forth in Section 8 hereof. With respect to the voting rights of Unit Owners after the exercise of said option described herein, the rights shall be set forth in Article 1, Section 3 of the Bylaws.

(B) Option to submit part or parts of the Additional Property to Condominiums

(1) The option

Declarant hereby reserves unto itself, its successors and assigns the right and option to submit from time to time any part or parts of the Additional Property then owned by him and all improvements thereon for the construction of additional Units. There are no limitations as to the location of any improvements that may be made on any portion of the Additional Property added to the condominium property. This option may be exercised by Declarant, or by its successors and assigns, executing from time to time an amendment or amendments to this Declaration, which shall be filed for record in the office of the Delaware County Recorder not later than seven (7) years from the date this Declaration is filed for record. The Declarant may, during the six months prior to the time that the option expires, extend the option for an additional seven (7) years with the consent of a Majority of the voting power of the Unit Owners other than Declarant. Each amendment shall expressly submit a legally described part or parts of the Additional Property and the improvements constructed thereon to all of the provisions of this Declaration the Bylaws and Drawings (as amended or supplemented). There shall so be filed with each amendment a set of drawings which show graphically all the particulars of the Additional Property and the improvements thereon and which are certified in accordance with the provisions of Section of 5311.07 of Chapter 5311, as the same may then exist. Each amendment, in addition to declaring that it submits a legally described part or parts of the Additional Property to the provisions of this Declaration and shall provide:

(A) A general description of the building or buildings being added stating the materials of which it is constructed and the number of Units therein.

(B) The Unit designation of each Unit and a statement of its location, approximate area, and the immediate Common Elements to which it has access, and any other data necessary for its proper identification.

(C) A description of the Common Elements and the percentage of interest therein appertaining to each Unit (both the former Units and the ones being added), which percentage shall be determined by Declarant in accordance with Section 5311.04 of the Ohio Revised Code.

(D) A statement that each Unit Owner shall be a member of the Association.

(E) A statement to the effect that this Declaration, except as expressly modified by the amendment to add the Additional Property, is and continues to be in full force and effect and fully applicable to the former Condominium Property and to all property added by the amendment.

(F) For such other particulars as may be required by Section 5311.05 of the Ohio Revised Code.

Each amendment shall, further,

(G) Be executed with the same formalities as this instrument.

(H) Refer to the volume and page in which this instrument and the Drawings be recorded.

(I) Contain an affidavit by Declarant (or other appropriate individual in the case of Declarant's successors and assigns) that a copy of the amendment has been delivered, to all Unit Owners in a manner by which notices may be given and to all first mortgagees who have bona fide liens of record against any Unit Ownership Interest by personal delivery, certified mail

(return receipt requested), or regular mail to a place of business (or residence in case of an individual) of the first mortgage.

(2) Conditions for Exercise of Option

It shall be a condition to Declarant's exercise of the option herein granted:

(A) That the improvements constructed upon each part of the Additional Property being added to this Declaration be the improvements and be constructed in the manner described in the plans submitted.

(B) That the percentages of interests in respect to the Units be in the amount and be allocated among the Units equally.

(C) That the purposes, uses, and restrictions upon the Additional Property and Units therein be the same as those contained in this Declaration.

(3) Consequences of the Amendment

Pursuant to the terms of Section 8 hereof, the allocation of percentage interests among the Units made by Declarant and stated in the amendment shall be conclusive and binding upon all Unit Owners. Upon the exercise, if any, of the option herein granted, this Declaration together with the amendment, shall embrace and submit to Chapter 5311 the Land and all land in the Additional Property declared by Declarant to be added, from time to time, to this Declaration, together with all improvements then constructed thereon.

(4) Non-exercise of Option

Should this option not be exercised within the term specified, it shall in all respects expire and be of no further force or effect. Declarant shall not be obligated to submit any part or parts of the Additional Property to this Declaration, shall not be obligated to construct on the Additional Property improvements of any kind of similar to those described herein, and shall not be obligated to use any part or parts of the Additional Property or any improvements constructed thereon for residential, apartment or similar use.

(C) Consent of Unit Owners to Amendment to Declarant

Declarant, on its own behalf as the owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by a acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves of all of the provisions of this Declaration, including, without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided herein, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate these provisions.

(D) Grant of Power-of-Authority to Declarant

Each Unit Owner and his respective mortgagees by acceptance of a deed conveying an Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, hereby irrevocably appoints Declarant his Attorney-in-Fact, coupled with an interest, and

authorizes, directs and empowers such Attorney, at the option of the Attorney in the event that Declarant exercises the option and the rights reserved to add, from time to time and at any time within seven (7) years from the filing of this Declaration for record unless extended in accordance with the terms of Section 23(B)(1) above, any part or parts of the Additional Property and the improvements constructed thereon to the Condominium Property as herein provided, to execute, acknowledge and record for and in the name of such Unit Owner an amendment or amendments of this Declaration for such purpose and for an in the name of such respective mortgagees, a consent to such amendment or amendments.

(E) Additional Rights of Declarant to Give Further Assurance

Declarant hereby reserves the right to perform and do such other acts and things as are necessary to carry out the intent and purpose of this paragraph, including without limitation the right to convey to each Unit Owner of a Unit on the land an undivided interest in the Common Elements on the part or parts of the Additional Property being added to this Declaration in the reduced percentage amount declared and determined by Declarant after the additional of each described part or parts of the Additional Property to the Condominium Property and to require each Unit Owner of a Unit on the land (1) to incorporate in each deed conveying his Ownership Interest prior to expiration of the Option period herein provided for an express reference or summary of this paragraph, as Declarant might determine, and (2) to execute and file for record from time to time and express acknowledgment of the existence and terms of this paragraph. Each Unit Owner of a Unit on the land and each mortgagee of such Unit Owner agrees to accept such conveyance, make such reference or summary in his deed, and execute such an acknowledgment. Each Unit Owner agrees, further, that he shall upon demand execute such deed and instruments as necessary or desirable to convey the excess percentage interest owned by him in the Common Elements of the then existing Condominium to the Declarant, and that he shall do and perform such other acts as necessary to carry out the intent and purpose of this paragraph. If Chapter 5311 should be amended to provide a method or procedure for the expansion of or addition of additional lands and improvement to an existing condominium by a Declarant, then Declarant hereby declares such method and/or procedure to be incorporated herein as another, alternative method and procedure by which additional parts of Additional Property may be added by Declarant to this Condominium, provided, however, that such statutory amendment does not reduce the rights and privileges Declarant has or may have by virtue of this Declaration. The provisions of this subparagraph are not to be construed as mandatory, limitations upon, or conditions precedent to the exercise, operation, or effect of the Option reserved and provisions provided for but are contained and reserved herein as supplementary and further assurance to the rights reserved by Declarant.

(F) Liability of Successor Owners

Any successor owner of the Condominium Property or of the Additional Property added to the Condominium Property who is not an affiliate of the Declarant and who is a bona fide purchaser of the property for value, or a purchaser who acquires the property at a sheriff's sale or by deed in lieu of a foreclosure, is not liable in damages for harm caused by an action or omission of the Declarant or a breach of an obligation by the Declarant.

24. AMENDMENTS

(A) By Declarant

This Declaration may be amended by Declarant, its successors and assigns, and by the Unit Owners (if not Declarant) of the fee simple title to the Additional Property.

(1) Adjustments to Units

Anything herein to the contrary notwithstanding, Declarant reserves the right to change the interior design and arrangements of all Units, to subdivide a single Unit into two or more Units, to combine (in whole or in part) two or more Units into a single Unit, and to alter the boundaries between the Units, so long as Declarant owns the Units so altered, subdivided, or combined, and so long as the exterior walls of a Building are not altered. If Declarant alters the boundaries between Units, combines Units, or subdivides a Unit, Declarant shall prepare, and file with the Recorder of Delaware County an appropriate amendment to this Declaration and the Drawings. The amendment shall reflect the change in percentage interest of such adjusted Units in the Common Elements, but the aggregate off the percentage interest of the adjusted Unit(s) in the Common Elements shall remain the same. For example, if 300 square feet of floor area in a Unit having a three percent (3%) interest in the Common Elements were eliminated from such Unit and added to an adjoining Unit having before such addition a two percent (2%) interest in the Common Elements, the Unit losing 300 square feet of floor area may have its percentage of interest in the Common Elements reduced 0.3% to 2.7%. The Unit acquiring such 300 square feet of additional floor space would have its percentage of interest in the Common Elements increased 0.3% to 2.3%, but the aggregate percentage of interests of the two affected Units would remain the same, namely 5% ($3.0\% + 2.0\% = 5\%$; and $2.7\% + 2.3\% = 5\%$). By way of further example, if two adjoining Units, each having a 3% interest in the Common Elements (for an aggregate percentage interest of 6% are joined into one Unit, there will be one less Unit in the Condominium, but the one Unit will have a 6% interest in the Common Elements.

The amendment of this Declaration reflecting such authorized alteration or subdivision of Units by Declarant need be signed and acknowledged only by Declarant, and need not be approved by the Association, Unit Owners, or lien or (other than first mortgagees) whether or not elsewhere required for an amendment. The amendment shall include an amendment to the Drawings which shall be duly verified as required by Chapter 5311, but likewise, shall require no approval by anyone except Declarant who shall endorse its approval on the amendment to the Drawings. The amendments shall be duly filed for record by Declarant.

Declarant, on its own behalf as the owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves of all of the provisions of this part, including, without limitation the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided herein, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate these provisions.

Each Unit Owner and his respective mortgagees by acceptance of a deed conveying an Ownership Interest, as the case may be, hereby irrevocable appoints the Declarant his Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney in the event that Declarant exercises the right reserved in this part to alter or subdivide Units, to execute, acknowledge and record for and in the name of such Unit Owner an amendment or amendments of this Declaration for such purpose and for and in the name of such respective mortgagees a consent to such amendment or amendments.

Declarant hereby reserves the right to perform and do such other acts and things as are necessary to carry out the intent and purposes of this part. The provisions of this paragraph and of the two preceding paragraphs of this part (ii) are not to be construed as mandatory, limitations upon, or conditions precedent to, the exercise, operations or effect of the rights reserved and provisions provided for in the first two paragraphs of this part (ii), but are contained and reserved herein as supplementary and further assurance to the rights reserved by Declarant under said first two paragraphs.

Anything in the forgoing provisions of this part (ii) to the contrary notwithstanding, Declarant shall not amend this Declaration as provided in this part (ii) without the consent in writing, endorsed upon or attached to the amendment, of the holder of any recorded first mortgage upon the Units being altered, combined or subdivided by the amendments, and such holder may at its discretion, refuse to sign such consent. If any such mortgagee does refuse to sign such consent, such mortgagee agrees to accept a payment, without charging a penalty or prepayment fee, of the indebtedness (and accrued interest) secured by the mortgage and to deliver to Declarant a recordable discharge of the mortgage upon such payment.

(B) By Others

(1) In addition to the manner of making amendments described or referred to in subsection (a) of this Section, this Declaration, the Drawings, and the Bylaws may be amended upon the filing for record with the Delaware County Recorder of an instrument in writing setting forth specifically the item and items to be amended and any new matter to be added, which instrument shall have been duly executed by Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Such amendment must be executed with the same formalities as this instrument, must refer to the volume and page in which this instrument and the Drawings are recorded, and must contain an affidavit by the President of the Association that a copy of the amendment has been personally delivered at an office of or has been mailed by certified mail to all mortgagees having bona fide liens of record against any Unit Ownership Interest. Notwithstanding anything to the contrary contained herein, the Board may amend the Declaration without a vote of the Unit Owners in any manner for any of the purposes set forth in Ohio Revised Code Section 5311.05(E).

25. REMEDIES FOR BREACH OF COVENANTS AND RULES

(A) Abatement and Enjoinment

The violation of any restriction, condition or Rule adopted by the Association or the breach of any restriction, covenant or provision contained in this Declaration or in the Bylaws shall give the Association the right, in addition to the rights and those provided by law, (i) to

enter upon the land or Unit or portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the Owner of the Unit where the violation or breach exists (or if the violation or breach is in respect to Limited Common Elements the Owner of the Unit to which the Limited Common Elements and Facility is appurtenant), any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, the Bylaws, or the Rules and the Association, and its agents, shall not be thereby deemed guilty in any manner of trespass; (ii) to enjoin, abate or remedy by appropriate legal or equitable proceedings that continuance of any breach; and/or (iii) to commence and prosecute an action to recover any damages which may have been sustained by the Association or any Unit Owner or Unit Owners.

(B) Involuntary Sale

If any Unit Owner (either by his own conduct or by the conduct of any tenant of the Unit) shall violate any covenants or provision contained in this Declaration or the Rules and such violation shall continue for one hundred eighty (180) days after notice in writing from the Association or shall occur repeatedly during any one hundred eighty (180) day period after written notice or request to cure such violation from the Association, provided, however, that if the violation constitutes a nuisance or constitutes a threat to the health and safety of other Unit Owners or to a part or parts of the Condominium Property, then if the violation continues for thirty (30) days after notice in writing from the Association or occurs repeatedly during any thirty (30) day period after written notice or request to cure from the Association, the Association shall have the right to give to the defaulting Unit Owner a notice in writing that the rights of such Unit Owner and any tenants of such Unit to continue as a Unit Owner any tenant and to continue to occupy, use or control his Unit shall terminate as of the tenth day following the giving of such notice, and all rights and privileges of such Unit Owner and any tenants of his Unit shall terminate on such tenth day. At any time within ninety (90) days after such tenth (10th) day, an action may be filed by the Association against such Unit Owner or any tenant for a decree of mandatory injunction against said Unit Owner or Occupant, or for a decree declaring the termination of the right of such Unit Owner or any tenant to occupy, use or control the Unit owned or occupied by him and ordering that all the right, title and interest of the Unit Owner or any tenant in his Ownership Interest or interest therein shall be sold (subject to any liens and encumbrances thereon) at a judicial sale upon such notice and terms as the court shall establish, except that the court may be requested to enjoin and restrain such Unit Owner or any tenant from reacquiring his Ownership Interest at such judicial sale, and the court shall grant all such relief requested by the Association. The Association, however, may acquire said Ownership Interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, receiver's fees and all other expenses of the proceedings, and all such items shall be taxed against such Unit Owner and any tenant in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid Assessments owing to the Association and all mortgages and other liens and encumbrances required to be discharged, shall be paid to the Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a conveyance of the Ownership Interest or interest therein and to immediate possession of the Unit so conveyed, and may apply to the court for a writ for the purpose of acquiring such conveyance and possession, and it shall be a condition of any such

sale, and the decree shall so provide, that the purchaser shall take the interest in such Ownership Interest or interest therein subject to this Declaration.

The rights of the Association hereunder shall not be deemed or interpreted to prevent the holder of any first mortgage upon the affected Unit from accelerating the time or times of payment of the indebtedness secured by such mortgage, and if such holder does accelerate payment of the secured indebtedness, such holder shall be entitled to payment of the full indebtedness from the proceeds of sale in accordance with the priority of the mortgage lien.

The provisions of this subsection (b) shall, further, not be exclusive of the rights and remedies of the Association or of any Unit Owner or any tenant in the event of any violation or breach of any clause of this Declaration or the Rules; and the time periods herein set forth shall not be applied to or be interpreted to restrict the time within which the Association or any Unit Owner may undertake and proceed with any other right, remedy or action it may have or otherwise act in respect to any violation or breach of any clause of this Declaration or Rules.

26. SALES, LEASING OR OTHER ALIENATION

(A) Sale

Any Unit Owner, other than the Declarant, who wishes to sell his Ownership Interest or any interest therein to any person who is not a spouse, parent, child or grandchild of the Unit Owner, shall give to the Secretary of the Association no less than thirty (30) days prior to the proposed sale, written notice of the proposed sale, together with the name and address of the proposed purchaser, and a true, executed copy of the proposed purchase agreement, which purchase agreement shall be bona fide, shall contain all of the terms and conditions of such sale, and shall expressly be subject to the option granted herein to the Association, in the event the proposed purchase price is less than the amount the Unit Owner paid for the Ownership Interest. The Association shall have the first right and option to purchase such Ownership Interest upon the same terms as those contained in the purchase agreement so delivered to it, which option shall be exercisable for a period of fifteen (15) days following the date of receipt of such notice, agreement, names and addresses. If said option is not exercised by the Association within the aforesaid option period, or if the option is waived or released, the Unit Owner may, at the expiration of said period, sell such Ownership Interest to the proposed purchaser named in such notice upon (and only upon) the terms specified herein.

(B) Involuntary Sale

In the event any Ownership Interest or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale), the person acquiring title through such sale shall, before taking possession of the Ownership Interest so sold, give thirty (30) days written notice to the Board of his intention so to do, whereupon the Association shall have the right and option to purchase such Ownership Interest or interest therein at the same price for which it was sold at said sale. If said option is not exercised by the Association within said fifteen (15) days after receipt of such note, it shall thereupon expire and said purchaser may thereafter take possession of said Unit. The Association may exercise its option by giving notice to said purchaser within fifteen (15) days following the date of receipt of such notice. Additionally, no Unit Owner shall, without the approval of the Board, grant, sell (either directly or through the

grant of an option), gift, transfer, lease, sublease or otherwise permit the use of such Unit Owner's Unit to any prior Unit Owner whose Ownership Interest was sold at a judicial sale, at an execution sale, as a result of a foreclosure, or otherwise as a result of an involuntary sale of such prior Unit Owner's Ownership Interest.

(C) Defaults in Payments

In the event any Unit Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage or trust deed against his Ownership Interest, or any other obligation which may result in a lien on his Ownership Interest, the Association shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefor against such Ownership Interest.

(D) Release, Waiver and Exceptions to Option

(1) Upon the consent of a majority of the then existing members of the Board, any of the options contained in this Section 26 may be released or waived and the Ownership Interest or interest therein which is subject to an option set forth in this Section 26 may be sold, conveyed, leased, free and clear of the provisions of this Section 26.

(2) None of the options contained in this Section 26 shall be applicable to the sale of any Ownership Interest in a first mortgage foreclosure sale, the conveyance of a Ownership Interest to the holder of a first mortgage upon a Ownership Interest by a deed given in lieu of foreclosure, and a conveyance of a Ownership Interest by a person or entity which was a first mortgagee and which acquired title to the Ownership Interest in a foreclosure of the mortgage thereon or by a deed in lieu thereof.

(3) A certificate signed by the Secretary of the Association stating that the provisions of this Section 26 as hereinabove set forth have been met by a Unit Owner, or duly waived by the Board, or that the rights of the Association hereunder have terminated, shall be conclusive upon the Association and all Unit Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Unit Owner who has in fact complied with the provisions of this Section 26 or in respect to whom the provisions of this Section 26 have been waived or released, upon request and payment of a reasonable fee, not to exceed Ten Dollars (\$10.00).

(E) Condition Precedent to Exercise to Option; Consent of Voting Members

The Association shall not exercise any option hereinabove set forth to purchase any Ownership Interest or interest therein without the prior written consent of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of the Association, and whose Ownership Interest is not the subject matter of such option. The Association may bid to purchase at any sale of an Ownership Interest or interest therein which is held pursuant to an order or direction of a court upon the prior written consent of the aforesaid voting Unit Owners, which said consent shall set forth a maximum price which the Association is authorized to bid and pay for said Ownership Interest or interest therein. The aforesaid option shall be exercised by the Association solely for the use and benefit of the Unit Owners consenting thereto. It shall be a further condition to the exercise of any option granted to the Association in this Section 26

that the Unit Owners so consenting in writing to purchase (or bid) the Ownership Interest deposit with the Treasurer of the Association before the expiration of the option period either (i) an amount of cash equal to the purchase price, or, in case the purchase price is to be determined later, a reasonable estimate of such purchase price, or (ii) a commitment (a combination of cash and commitment) from a financial institution such as a bank or savings and loan association that such institution shall provide an amount of money to one or more of the consenting Unit Owners equal to the purchase price (or the reasonable estimate thereof) for the purchase of such Ownership Interest upon the transfer of title thereof to the President or Secretary of the Association as trustee for the consenting Unit Owners. The commitment may provide that the Ownership Interest be mortgaged to secure a loan to such Unit Owners. All moneys received by the Treasurer under this Section 26 shall be deposited by him in a special account with a bank or savings and loan association which shall be opened, held and used by the Association solely to make the purchase upon its exercise for the option granted to it herein provided.

(F) Procedure for Consummation of Option

(1) **Exercise of Option.** Any option exercisable by the Association hereunder may be exercised within the respective option period by delivery to the person or persons designated above a written notice of such exercise signed by the President, Vice President or Secretary of the Association.

(2) Financing of Purchase Under Option.

(a) Acquisition of any Ownership Interest under the provisions of this Section 26 shall be made from the moneys or commitment deposited with the Treasurer as provided for in subsection E of this Section 26. If said deposit is insufficient, the Association shall levy a special assessment against each consenting Unit Owner in the proportion which his percentage of interest in the Common Elements and Facilities bears to the percentage of interest in the Common Elements and Facilities of all consenting Unit Owners, which assessment shall be payable immediately upon notification thereof to such consenting Unit Owners. If the assessment is not paid, it shall become a lien and be enforceable as a lien for Common Expenses.

(b) Neither the Board, the Association nor any officer of the Association (in his capacity of such officer) shall borrow money on behalf of the Association to finance the acquisition of any Ownership Interest (or interest therein) authorized by this Section 26 nor shall they or any of them become liable (by reason of his or their holding title in trust for the consenting Unit Owners and granting a mortgage as such legal title holder) under any evidence of indebtedness or security instrument therefore related to any such acquisition; but the President or Secretary (as holder of legal title for the consenting Unit Owners) shall upon demand of any consenting Unit Owner or Owners grant one first mortgage upon the Ownership Interest being acquired to secure a loan made to one or more of the consenting Unit Owners to purchase the Ownership Interest. An officer may become liable as a consenting Unit Owner.

(3) Consummation of Purchase

Subject to the provisions of this Section 26(F), any purchase effected pursuant to the provisions of this Section 26 shall be made by the payment of the purchase price by the Treasurer of the Association from the special account established on behalf of the consenting Unit Owners, in return for a conveyance of the Ownership Interest or interest therein to the President or Secretary of the Association as trustee for all consenting Unit Owners. Within twenty (20) days after the exercise of the option by the Association as herein provided, the Treasurer of the Association shall deposit the purchase price with a title insurance company, designated by the Board, qualified to do business in the State of Ohio and having an office in Ohio, with instructions to pay over said purchase price when the title company is prepared to issue to the grantee named in the deed (who shall be the President or Secretary of the Association, as Trustee, as aforesaid) its standard policy or title insurance insuring said grantee is vested with fee simple title to the Unit free and clear of all liens, encumbrances and defects, except for --

- (a) taxes and assessments not then due and payable,
- (b) all matters contained in this Declaration,
- (c) all liens and encumbrances to which the purchase is expressly to be subject, and
- (d) all restrictions, easements, covenants and conditions affecting the Ownership Interest, or interest therein, which were duly made under authority of this Declaration, or to which the Condominium Property was subject at the date this Declaration was filed for record.

Within the same twenty (20) day period, the persons obligated to convey the Unit, or interest therein, subject to the option, shall deposit with the title insurance company designated by the Board, a deed of general warranty (except a grantor under subsection (B) and (C) of this Section 26 may deposit a limited warranty deed or sheriff's deed) conveying good fee simple title to the Ownership Interest or interest therein to the President or Secretary of the Association, as trustee, free and clear of all liens, encumbrances and defects, except for those matters referred to above. Anything herein to the contrary notwithstanding, the Treasurer shall not be obligated to deposit the purchase price with the title company until the deed aforesaid is deposited with the title company and the title company is prepared to issue its title policy to the grantee named in the deed insuring said grantee he is vested with title as aforesaid. The grantor shall pay for taxes and assessments, Common Expense assessments, and utilities prorated to the date of transfer of title, the cost of the title search, the cost of removing all nonexcepted defects, liens and encumbrances to title, the premium for the policy of title insurance, any applicable transfer fees, and one-half of the escrow fee. The Treasurer (for the consenting Unit Owners) shall pay for one-half of the escrow fee, the fee for filing for record the deed of conveyance, and any prorations due to the grantor. Anything herein to the contrary notwithstanding, where the Association exercises its option to purchase granted under subsection (B) of this Section 26, the purchaser who is obligated to convey title to the President or Secretary of the Association shall not be obligated to pay any real estate taxes or assessments, or any Assessments accruing from the date he acquired title to the date he becomes obligated to convey title to the President or Secretary of the Association; nor shall he be obligated to pay any escrow fees, title searches, premiums for title insurance, or conveyance fees charged in connection with his transfer of title to the President or Secretary of the Association, it being the intention of this sentence that the purchaser at a judicial or execution

sale who is obligated to convey the title he acquired to the President or Secretary of the Association shall be made substantially whole, except for any interest or financing charges paid by him, his legal fees, investigations and other incidental expenses.

A purchase made pursuant to the exercise of the option under subsection (A) of this Section 26 shall be consummated in accordance with the provisions of the Agreement which the Unit Owner first proposed to enter into. A purchase made pursuant to a bid at a judicial or execution sale shall be made in accordance with the conditions of the order of sale and other applicable law.

(4) **Title to Acquired Interests.** Ownership Interests or interests therein "acquired" pursuant to the terms of this Section 26 shall be held of record in the name of the President or Secretary of the Association as trustee for all consenting Unit Owners. Such holding shall be for the benefit of all the Unit Owners consenting to and participating in such acquisition. Said Ownership Interests or interests therein shall be sold or leased upon authorization of a majority of the Board for the benefit of such consenting Unit Owners. All net proceeds of any such sale or leasing shall be deposited in a special account and shall thereafter be promptly disbursed in the appropriate amounts to the consenting Unit Owners.

27. RESERVATION OF DEVELOPMENT RIGHTS AND PLAN OF DEVELOPMENT

Declarant hereby expressly reserves the following Development Rights, along with the right to exercise such rights without the consent of any Mortgagee or any Owner:

- a. To add additional property, as defined in ORC § 5311.01(B), to the Condominium Property created hereby, as more fully set out in Section 23;
- b. To create easements, Units, Common Elements or Limited Common Elements within any portion of the Condominium Property created hereby;
- c. To subdivide Units, combine Units, convert Units into Common Elements or convert Common Elements into Units;
- d. Subject to applicable law, to withdraw real estate from the Condominium Property created hereby;
- e. To make, by merger agreement or other instrument, this Condominium Property a part of a larger condominium;
- f. To amend this Declaration to comply with applicable law or to correct any error or inconsistency in this Declaration provided that such amendment does not adversely affect the rights of any Unit Owner, which amendment rights as set forth in this subsection f shall be exercised, if at all, subject to applicable law.
- g. To amend this Declaration to comply with the rules or guidelines, in effect from time to time of any governmental or quasi governmental entity or federal corporation guarantying or insuring mortgage loans or governing transactions involving mortgage instruments, which amendment rights as set forth in this subsection g shall be exercised, if at all, subject to applicable law.
- h. To enter the Units, upon twenty-four (24) hours' notice to the Owner.

In the event the Condominium Property created hereby is expanded to include a greater number of Units, each Owner of such additional Units shall become a Member of the

Association and shall be entitled to exercise the same voting rights as Owners in the Condominium Property created hereby and as provided in the Bylaws. Upon the creation of such additional Units within the Condominium Property created hereby, the respective interest in and to the Common Elements appurtenant to each Unit in the existing Condominium Property shall be reduced in proportion to the number of Units added to the Condominium Property. Subsequent to the addition of any new Units, the interest in and to the Common Elements appurtenant to each Unit in the Condominium Property shall be determined in the same manner as set forth in Section 8 hereof.

28. EXEMPTION OF DECLARANT FROM RESTRICIONS AND RESERVATIONS AND RESERVATION OF SPECIAL DECLARANT RIGHTS

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, its employees, agents, and subcontractors, or parties designated by it in connection with any construction, completion, sale or leasing of any portion of the Condominium Property. In addition to the foregoing, Declarant expressly reserves the following Special Declarant Rights, and the right to transfer such rights at the Declarant's discretion:

- a. The right to construct any improvements as provided herein;
- b. The right to exercise any Development Right as more fully set forth in Section 27 hereof;
- c. The right to maintain sales offices, management offices, signs advertising the Condominium Property and model Units within the Condominium Property until the last Unit in the Condominium Property is sold to an owner other than Declarant;
- d. The right to use any easements through the Common Elements for the purpose of making improvements within the Condominium Property or within any other portion of the Land;
- e. The right to appoint or remove any officer of the Association or any Board member during any period of Declarant control as provided in Section 14(A) hereof;
- f. The Declarant hereby reserves the specific right for itself to divide each Unit which it has not conveyed to an Owner into two or more Units and may transfer, sell or assign any such new Units without the consent or approval of all other Unit Owners or the Association, provided that such new Units are fully described and delineated in an amendment, duly filed, to this Declaration, which said amendment shall specify the division of any such Unit and shall contain any other requirements of the Act and shall be executed by the Declarant and upon recordation of such amendment, it shall become part of this Declaration. The new Units shall expressly be subject to all terms and conditions of this Declaration as any other Unit. The right to further subdivide any Unit shall remain with the Declarant and shall be extinguished upon the conveyance by the Declarant of any Unit to an Owner.

29. WARRANTIES FURNISHED BY DECLARANT

A description of the warranties for structural elements and mechanical or other systems is as follows:

(A) Declarant furnishes a one-year warranty covering the full cost of labor and materials for any repair or replacement of roof and structural components and mechanical, electrical, plumbing, and common service elements serving the Condominium Property (other than concrete and drywall) occasioned or necessitated by a defect in material or workmanship. Said one-year warranty shall commence on the date the deed, land contract, or other evidence of legal or equitable ownership is filed for record following the sale of the first Unit in the development to a purchaser in good faith for value.

(B) Declarant furnishes a one-year warranty covering the full cost of labor and materials for any repair or replacement of structural, mechanical, and other elements (other than concrete and drywall) pertaining to each Unit, occasioned or necessitated by a defect in material or workmanship. Said one-year warranty shall commence on the date the deed, land contract, or other evidence of legal or equitable ownership is filed for record following the first sale of a Unit to a purchaser in good faith for value.

(C) Notwithstanding Section 29(B) above, in the case of equipment or appliances, if any, installed and furnished as part of the Unit by the Declarant, the valid assignment by the Declarant of all the Developer's right, title, and interest in and to any and all express and implied warranties of the manufacturer, satisfies the Declarant's obligation with respect to such equipment or appliances.

(D) Declarant shall assign all warranties made to the Declarant that exceed the time periods for the warranties disclosed in Sections 29(A) and 29(B) above, with respect to any part of the Units or Common Elements.

(E) The warranties referred to in this Section 29 are a full and complete statement of all warranties, express and implied, given by the Declarant. By acceptance of a deed for a Unit, each Unit Owner acknowledges that he has inspected the Unit described therein and is buying it in its present condition without further warranty or representation, express or implied, by the Declarant or by an agent or broker of the Declarant.

(F) DISCLAIMER OF WARRANTIES -- OTHER THAN THE EXPRESS WARRANTIES SET FORTH ABOVE, DECLARANT HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

(G) LIMITATION OF LIABILITY -- DECLARANT SHALL NOT BE RESPONSIBLE FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY ARISING IN ANY MANNER. DECLARANT SHALL NOT BE RESPONSIBLE FOR ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY SORT.

30. MISCELLANEOUS PROVISIONS

(A) *Declarant's Rights Pending Election of Board; Assessments During Start-up Period*

Until the later of, (i) five (5) years have elapsed from the time this Declaration and from the time any amendment hereof has been filed for record with the Delaware County Recorder, subject to extension or until (ii) such time as Declarant shall have consummated the sale of the sufficient number of Ownership Interests to entitle the Unit Owners, other than Declarant, to exercise one hundred percent (100%) of the voting power in the Association, and until a meeting of the Association at which a Board is elected has been held, Declarant may exercise the powers, rights, duties and functions of the Association and the Board, including, without limitation, the power to determine the amount of, and to levy special assessments for Common Expenses, and the right to enter into, on behalf of and in the name of the Association.

During the Start-Up Period each Unit Owner shall pay _____ cents (_____) per square foot per month as Association fees and the Unit Owner's real estate taxes and assessments and other costs and expenses directly attributable to his Ownership Interest. At the end of the Start-Up Period, the Association shall have paid all bills then due and payable and shall have accumulated on behalf of the Association a pro rata amount of cash needed to pay the next premiums due on all required insurance and other cash or working capital. Following the Start-Up Period all Unit Owners shall pay all Assessments made against their Units, in accordance with their percentages of interest in the Common Elements, for the "Estimated Unit Owners' Cash Requirements" as then determined by Declarant or the Board, and all other payments herein required by them to be made.

(B) *Rights and Obligations of Declarant Pending Sale of Each Unit*

So long as said Declarant owns one or more Units, Declarant shall be subject to the provisions of this Declaration; except as set forth in Section 30(c) below and except that Declarant may sell, lease, convey, license, use and otherwise contract in respect to Units owned by Declarant without approval of the Board. Declarant covenants to take no action which would adversely affect the rights of the Association with respect to assurances against latent defects in the property or other rights assigned to the Association by reason of the establishment of the Condominium. Notwithstanding the foregoing, Declarant shall not rent any Units for transient purposes.

(C) *Exemption of Unsold Units.* Notwithstanding anything in this Declaration to the contrary, until such time that the Board is elected by the Unit Owners other than Declarant, Declarant shall have the option (but not the obligation) to direct that no assessments for Common Expenses shall be levied upon, or payable with respect to, any Unit which is owned by or leased to the Declarant, or any affiliate of Declarant or the successors and assigns of the Declarant, until such Unit has been sold to a third party. However, this reduced Common Expense assessment shall not be permitted unless the Declarant assumes the obligation to pay to the Association any deficiency in monies due to the Declarant having paid a reduced Common Expense assessment and necessary for the Association to be able to timely pay all

Common Expenses.

(D) Non-Liability of Declarant

Declarant shall not be held liable, (except for sole gross negligence) for any claim whatsoever arising out of or by any actions performed pursuant to this Declaration or in Declarant's (or its representative's) capacity as developer, contractor, owner, manager or seller of the Condominium Property whether or not such claims (i) shall be asserted by a Unit Owner, the Association, or by any person or entity claiming through any of them or (ii) shall be on account of injury to person or damage to or loss of property wherever located and however caused, or (iii) shall arise ex contractual or (except in the case of gross negligence) ex dilecto. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any neglect of any Unit, the Association, and their respective agents, employees, guest, and invitees, or by reason of any neighboring property or personal property located on or about the Condominium Property, or by reason of the failure or malfunction or disrepair of any utility services (heat, electricity, gas, sewage, etc.)

(E) Notices of Mortgages

Any Unit Owner who mortgages his Ownership Interest or interest therein, shall notify the Association, in such manner as the Association may direct, of the names and addresses of his mortgagees and of the amount being secured thereby and thereafter shall notify the Association of the payment, cancellation or other alteration in the status of such mortgages. The Association shall maintain such information in a book entitled (Mortgages of Units).

(F) Purchasers Under Land Installment Contract Considered Owners. The sale of a Unit on a land installment contract basis whereby legal title is to remain with the seller until such time as the purchaser complies with all the terms of the land installment contract, conveys to the purchaser, to the extent of payments made under such land installment contract, an equitable interest in the Unit sold together with an appurtenant undivided equitable interest in the Common Elements. Even though the purchaser does not obtain legal title to the Unit and the Common Elements, the purchaser, at the time the land installment contract is recorded or at the time the purchaser takes possession of the Unit, whichever occurs earlier, shall be entitled to all the rights and privileges set forth for a Unit Owner of a Unit in this Declaration, the Bylaws and the condominium rules and regulations and shall be subject to all the obligations and penalties imposed on a Unit Owner of a Unit in this Declaration, the Bylaws and the condominium rules and regulations, including, but not limited to, the right to vote in the Association as a Unit Owner of the Unit being sold under the land installment contract and the obligation to pay the periodic assessments and be responsible for the Common Expenses attributable to the Unit being sold under the land installment contract. The person holding legal title to a Unit which is subject to a land installment contract shall not be entitled to such rights and privileges as a Unit Owner and shall in no way be responsible for such obligations and penalties as a Unit Owner after the land installment contract is recorded or after the purchaser takes possession of the Unit, whichever occurs earlier; it being the intention hereof to treat the

purchaser of a Unit under a land installment contract, his heirs, successors and assigns, as the Unit Owner for purposes of this Declaration, the Bylaws and the condominium rules and regulations. At such time as the land installment contract is terminated, the legal title holder of the Unit shall be treated as the Unit Owner for purposes of this Declaration, the Bylaws and the rules and regulations of the Association.

(G) Copies of Notices to Mortgage Lender

Upon written request to the Board, the holder of any duly recorded mortgage on any Ownership Interest or interest therein shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner or Owners whose Ownership Interest or interest therein is subject to such mortgage, of any Assessments made against the Unit, and of any other written communications give by the Association to the Unit Owners, even though such written communication may not reach the status of a "Notice."

(H) Covenants Running with Land

Each grantee, lessee, or contractee of any interest whatsoever in any part of the Condominium Property, by the acceptance of a deed of conveyance, lease, or contract in respect to any interest in any part of the Condominium Property accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the Land, and shall bind any person having at any time any interest or estate in said Condominium Property, and shall insure to the benefit of such person in like manner as though the provision of this Declaration where recited and stipulated at length in each and every deed, lease and contract.

(I) Termination

Upon the removal of the Condominium Property from the provisions of Chapter 5311, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the Land or any Ownership Interest or interest therein shall terminate and be of no further force or effect.

(J) Waiver

No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

(K) Severability

The invalidity of any covenant, restriction, condition, limitation or any other provisions of this Declaration or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration. The cy pres rule shall be applied in all cases where any covenant, restriction, condition, or other provisions of this Declaration or any part thereof is found to be illegal or impossible of being given literal effect.

(L) Time Limits

In any of the privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common laws rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor or the now living descendants of George W. Bush, former President of the United States.

(M) Service of Notices on Association

Except where otherwise herein expressly provided, notices required to be given to the Board or the Association shall be in writing and shall be delivered to any two (2) members of the Board or to the President of the Association, either personally or by certified or registered mail, return receipt requested, with postage prepaid, addressed to such members or officer of his Unit. Copies of all such notices shall be sent to Todd Ernsberger, Onda, LaBuhn, Rankin & Boggs Co., LPA 35 North Fourth Street, Suite 100, Columbus, Ohio 43215.

(N) Service of Notices on Unit Owners

Unless otherwise expressly provided for herein, any notices required or desired to be given to the Unit Owners or to any one or more of them shall be in writing and shall be deemed to have been effectively given if it shall have been (i) delivered personally to the Unit Owner or Unit Owners (if there be more than one person owning a single Unit, a notice given to any one of such several persons shall be deemed to have been given personally to all of the persons owning an interest in such Unit), (ii) placed upon or beneath the door of the Unit or otherwise left at the Unit (it shall then be deemed to have been given to all persons owning an interest in such Unit), or (iii) sent by certified or registered mail, return receipt requested, with postage prepaid, addressed to the Unit Owner at the mailing address of his Unit.

(O) Duration

If any Ohio law should be deemed to limit the period during which covenants restricting lands to certain uses may run, it shall be the duty of the Board to cause the covenants contained herein, as amended from time to time, to be extended when extended when necessary by filing in the Recorder's Office of Delaware County a document bearing the signatures of a majority (or such lesser or greater number as may be permitted or required by law) of the then Unit Owners reaffirming and newly adopting this Declaration in order that the same may continue to bind and run with the land. Such adoption by a majority (or such lesser or greater number as may be permitted or required by law) shall be binding on all, and each Unit Owner of any Unit, by acceptance of a deed therefor, is deemed to agree that this Declaration may be extended as provided in this subparagraph. This subparagraph is precautionary only. If the effect of Chapter 5311 is to abrogate any law limited the period during which covenants restricting lands to certain uses may run, then such document need not be filed. This subparagraph shall not be deemed to limit in any respect the covenants, restrictions and declarations herein contained, it being the intention of Declarant and all Unit Owners that all of the declarations, covenants and restrictions herein contained shall continue until this Declaration and submission is terminated in the manner herein provided.

(P) *Headings*

The heading to each paragraph and each subparagraph hereof is inserted only as a matter of convenience and reference in no way defines, limits or describes the scope or intent of this Declaration nor in any way affects this Declaration.

(Q) *Interpretation*

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first-class commercial condominium development.

**[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]
[SIGNATURES TO FOLLOW]**

The Declarant has executed this Declaration this _____ Day of _____, 2018.

By: _____

STATE OF OHIO)
) SS:
COUNTY OF DELAWARE)

The forgoing instrument was acknowledged before me this _____ Day of _____ 2018,
by _____, the Manager of _____, an Ohio Limited Liability Company.

NOTARY PUBLIC

Prepared by:

CONSENT OF MORTGAGEE

The undersigned, the Mortgagee of the above-described Condominium Property, hereby consents to the submission of the Condominium Property to the provisions of Chapter 5311 of the Ohio Revised Code as a Condominium Property, known as HORSE POWER FARMS OF POWELL pursuant to the foregoing Declaration of Condominium Ownership, preserving however, all of its rights as mortgagee thereof.

MORTGAGEE

By: _____

Its: _____

STATE OF _____)

)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____, the _____ of _____, an _____ Ohio _____, on behalf of the _____.

EXHIBIT A

ADDITIONAL PROPERTY

Being part of Farm Lot 13 & 14, Section 2, Township 3, Range 19, U.S. Military Lands, Liberty Township, Delaware County, Ohio, and being part of a 10.06 acre tract conveyed to the River of Life Assembly of God, in Vol. 519 Page 391.

Containing 9.575 acres of land, more or less. From the Township of Liberty, Delaware County, Ohio to the City of Powell, Ohio.

EXHIBIT B

LEGAL DESCRIPTION

EXHIBIT C
DRAWINGS

EXHIBIT D

BYLAWS

**DECLARATION AND BYLAWS
CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP
UNDER CHAPTER 5311 OF THE OHIO REVISED CODE FOR
HORSE POWER FARMS OF POWELL, A COMMERCIAL CONDOMINIUM
POWELL, DELAWARE COUNTY, OHIO**

CERTIFICATE OF AUDITOR

A copy of this Declaration with Bylaws and Drawings attached was filed with this office on the ____ day of _____, 2018.

County Auditor

CERTIFICATE OF RECORDER

I hereby certify that a copy of the Declaration of Condominium Ownership attached to this Certificate, together with the Bylaws and Drawings attached to said Declaration of Condominium Ownership, have been received for record this ____ day of _____, 2018, at ____ M. and recorded this ____ day of _____, 2018 in Volume _____, Page _____, Official Records, and Volume _____, Page _____, Book of Plats.

County Recorder

PREPARED BY:

TODD A. ERNSBERGER
ONDA, LABUHN, RANKIN & BOGGS CO., LPA
35 NORTH FOURTH STREET, SUITE 100
COLUMBUS, OHIO 43215

**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
HORSE POWER FARMS OF POWELL, A COMMERCIAL CONDOMINIUM**

Table of Contents

1. DEFINITIONS	1
2. SUBMISSION OF CONDOMINIUM PROPERTY TO CHAPTER 5311	4
3. NAME	4
4. DESCRIPTION OF CONDOMINIUM PROPERTY	4
5. DIVISION OF CONDOMINIUM PROPERTY	6
6. UNITS	6
7. COMMON ELEMENTS	7
8. OWNERSHIP OF COMMON ELEMENTS; PERCENTAGE OF INTEREST	7
9. USE OF COMMON ELEMENTS.....	8
10. LIMITED COMMON ELEMENTS AND THE USE THEREOF	9
11. EXCLUSIVE USE AREAS	9
12. EASEMENTS	10
13. PURPOSES OF CONDOMINIUM PROPERTY; COVENANTS AND RESTRICTIONS AS TO THE USE AND OCCUPANCY	12
14. THE ASSOCIATION	14
15. DUTIES OF THE ASSOCIATION	17
16. DUTIES OF UNIT OWNERS	19
17. CONSTRUCTION DEFECTS.....	20
18. ASSESSMENTS: COMMON EXPENSES AND COMMON PROFITS	20
19. INSURANCE AND CASUALTY LOSSES	21

20. CONDEMNATION	27
21. REHABILITATION OF BUILDINGS AND OTHER IMPROVEMENTS	30
22. REMOVAL FROM PROVISIONS OF CHAPTER 5311	30
23. ADDITION TO CONDOMINIUM PROPERTY	31
24. AMENDMENTS	35
25. REMEDIES FOR BREACH OF COVENANTS AND RULES	36
26. SALES, LEASING OR OTHER ALIENATION	38
27. RESERVATION OF DEVELOPMENT RIGHTS AND PLAN OF DEVELOPMENT.....	42
28. EXEMPTIONOF DECLARANT FROM RESTRICIONS AND RESERVATIONS AND RESERVATION OF SPECIAL DECLARANT RIGHTS.....	43
29. MISCELLANEOUS PROVISIONS	44

**DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
HORSE POWER FARMS OF POWELL, A COMMERCIAL CONDOMINIUM**

HORSE POWER FARMS, LLC, an Ohio Limited Liability Company (Declarant) being the owner of the Condominium Property hereinafter described makes the following declaration:

1. DEFINITIONS

Whenever used herein, in the Bylaws, and in any amendments or supplements hereto, unless the context otherwise requires,

(A) “Additional Property” means that certain real property described on Exhibit A, attached hereto and made a part hereof that may, at Declarant’s option, be added to and expand the Condominium Property pursuant to Chapter 5311 and in accordance with Section 23 herein.

(B) “Assessments” means the determination of the share of common expenses and other charges which from time to time shall be payable by each Unit Owner. Other charges shall mean and include, without limitation,

1. The costs, expenses and charges for repairs and replacements made by the Association which were the duty of the Unit Owner to make;
2. Any special charges made by the Association to the Unit Owner for special services rendered to the Unit Owner or his Ownership Interest and for special or extraordinary uses or consumption attributable to such Unit Owner or his ownership interest;
3. Damages resulting from the failure of the Unit Owner to perform any of the duties imposed herein upon him;
4. Damages resulting from the Unit Owner’s failure to comply with any of the rules or with any of the covenants, conditions and restrictions contained in this Declaration or the Bylaws;
5. The costs of any action to obtain injunctive relief against such noncompliance;
6. Payments for utility charges made by the Association which were the duty of the Unit Owners to make, and payments of a similar or dissimilar kind made by the Association but which were justly and equitable the obligation of the Unit Owner to make;
7. Any other charges or assessments permitted by this Declaration or the Bylaws to be made against the Unit Owner or his Ownership Interest; and
8. Interest upon each assessment and charge at the highest legal rate which may be charged to an individual without being usurious but in no event higher than 10% per annum from the date of the assessment or charge first comes due to the date it is paid in full and/or the reasonable cost of collection or any assessments and charges (including court costs and reasonable attorneys’ fees).

(C) **“Association”** means HORSE POWER FARMS OF POWELL Condominium Owners Association, the entity established for the administration and operation of the Condominiums and consisting of all the Unit Owners existing from time to time.

(D) **“Board”** means the Board of Directors of the Association as the same may be constituted from time to time.

(E) **“Bylaws”** means the Bylaws of the Association, a true copy of which is annexed hereto to Exhibit D and made a part hereof.

(F) **“Buildings”** means that part of the Condominium Property constituting the Office and Storage Unit Buildings which now exist, or which may hereafter be added to the Condominium Property.

(G) **“Chapter 5311”** means Chapter 5311 of the Ohio Revised Code as the same may be amended or supplemented from time to time.

(H) **“Club House”** means the Club House building as shown on the Drawings. The Club House shall be approximately Fifty-six Feet (56') deep, Thirty-four Feet (34') wide and Sixteen Feet (16') high.

(I) **“Common Elements”** means all of the Condominium Property except the Units. The Common Elements shall include tangible personal property existing for the common use, enjoyment, or safety of the Unit Owners and for the maintenance of other parts of the Common Elements such as, decorations and equipment. Common Area, Common Facility and Common Facilities means Common Elements, except that their use in a particular sentence may be an obvious reference to a particular part or kind of the Common Elements. For example, the words Common Areas may be used to refer to lands outside the building, and Common Facilities may be used to refer to the wash down area and Club House.

(J) **“Common Expenses”** means those expenses designated as Common Expenses in Chapter 5311 in this Declaration, and in the Bylaws, or in any one or more of such documents, including without limitation the following:

1. All sums lawfully assessed against the Unit Owners by the Association.
2. Expenses, rentals, charges, payments and obligations of the Association incurred in the use, administration, maintenance, repair and replacement of the Common Elements and reserves established for such purposes.
3. Expenses, charges and costs of utility services furnished to the Common Elements.
4. All other expenses determined from time to time to be common expenses by the Association.

(K) **"Common Profit"** means the amount by which the total income profits, receipts and revenues from the Common Elements for a calendar year exceed the common expense for the same calendar year.

(L) **"Condominium"** means the Condominium Property, the relationship, the form of ownership thereof and the Association

(M) **"Condominium Property"** means the land together with the buildings and all improvements thereon, all easements rights and appurtenances belonging thereto, all articles of personal existence thereon for the common use of the Unit Owners.

(N) **"Declaration"** means this instrument and all of the exhibits and attachments hereto, as originally executed, or if amended as so amended.

(O) **"Drawings"** means the drawings prepared and certified by a certified engineer in accordance with Section 5311.07 of the Ohio Revised Code, relating to the entity known as HORSE POWER FARMS OF POWELL completed or not yet completed attached hereto as Exhibit C. The word drawings shall include, also all amendments, supplements, and additions thereto, if they should be amended, supplemented or added to. Drawings shall also mean any other drawings submitted by all parties with reference to the construction of HORSE POWER FARMS OF POWELL.

(P) **"Exclusive Use Areas"** means those parts of the Common Elements, other than Limited Common Elements, reserved for use of a certain Unit or Units to the exclusion of other Units and such other parts or spaces as may be designated by the Association.

(Q) **"Land"** means the land described on Exhibit B, where each Building shall exist consisting of the Condominium Property.

(R) **"Legal Description"** means the Land described on Exhibit B, attached hereto and made a part hereof.

(S) **"Limited Common Elements"** means those parts of the Common Elements reserved for the use of a certain Unit or Units to the exclusion of all other Units.

(T) **"Majority" or "Majority of Owners"** means the Owners of Units to which more than fifty percent (50%) of the undivided ownership of the Common Elements is appurtenant. Any specified fraction or percentage of the Owners means the Owners of Units to which the fraction or percentage of undivided ownership of the Common Elements is appurtenant.

(U) **“Office Unit”** means the space in the Club House, on the Drawings, which is a part of the Club House, or the Units designated as Office Units on the Drawings and as more fully described in Section 4(a) below.

(V) **“Ownership Interest” means:**

1. The exclusive ownership and possessory interests and the entire title to a Unit.
2. The undivided percentage interest in the Common Elements appertaining thereto.

(W) **“Person”** means a human being and a corporation, partnership, trust and any other legal entity to which the law attributes the capacity of having rights and duties.

(X) **“Rules”** means such rules and regulations governing the operation and use of the Condominium Property or any portion thereof as may be adopted by the Association or the Board from time to time.

(Y) **“Start Up Period”** means the period commencing with the date this Declaration is filed to be recorded with the Delaware County Recorder and ending on the last day of the twelfth full calendar month following the month in which legal title to a Unit is first conveyed to a purchaser.

(Z) **“Storage Units”** means the Units numbered 1 through 18 (excluding 13) of the Drawings or the Units designated as Storage Units on the Drawings and as more fully described in Section 4(b) below.

(AA) **“Taking”** means whenever all or part of the Common Elements or Units shall be taken by an authority having the power of condemnation or eminent domain.

(BB) **“Unit”** means either an Office Unit or a Storage Unit.

(CC) **“Unit Owner”** means the person or person owning:

1. The exclusive ownership and possessory interests and the entire title in a Unit.
2. An undivided percentage interest in the Common Elements, excluding however those persons having interest merely as security for the performance of an obligation.

2. SUBMISSION OF CONDOMINIUM PROPERTY TO CHAPTER 5311

Declarant hereby submits the Condominium Property to Chapter 5311 as a commercial condominium.

3. NAME

The Condominium Property shall be known as HORSE POWER FARMS OF POWELL.

4. DESCRIPTION OF CONDOMINIUM PROPERTY

The general description of the Condominium Property is described as follows

(A) Club House and Storage Unit Buildings

The initial building contains the Club House, Office Unit and adjoining but separate bathroom facilities. The Office Unit is constructed on a concrete slab being a minimum of 4" thick. The Office Unit shall contain 40 AMP Electrical Service with no less than 4 wall outlets. The Office Unit shall be lighted on the interior. The Office Unit shall be approximately Eleven Feet (11') deep, Thirteen Feet (13') wide and Eight Feet, Eleven Inches (8'11") high. The Office Unit shall consist of approximately 143 square feet of area. The Office Unit is constructed of wooden studs, framing joists, rafter and plates, wooden trusses, metal roof, and approved dry wall on the interior walls and ceiling. The Club House and Office Unit Building shall be basic pole type construction with masonry fire walls as may be required by county codes. The side-walls shall contain approximately six Inches (6") of R-19 insulation, the ceiling shall contain approximately Ten Inches (10") of R-30 insulation and there shall be approximately Two Inches (2") of R-10.5 insulation under the floor. The Office Unit will be serviced by water and sewer. The Office Unit shall include the designated parking space(s) as depicted on the Drawings. The Club House and Office Unit will be constructed with water and sewer utility line hook-ups available.

The Storage Units are constructed on a concrete slab being a minimum of 4" thick. Each Storage Unit shall contain 60 AMP Electrical Service with no less than 4 wall outlets. Each Storage Unit shall be lighted on the interior. Each Storage Unit shall be between approximately Forty Feet (40') deep; Twenty-four Feet (24') wide and Sixteen Feet (16') high. Each Storage Unit shall contain a garage door no less than 12'w x14'h with an electric opener. Each Storage Unit is constructed of wooden studs, framing joists, rafter and plates, wooden trusses, asphalt or fiberglass shingles, and approved dry wall on the interior walls and ceiling. The Storage Unit Buildings shall be basic pole type construction with masonry fire walls as may be required by county codes. The side-walls shall contain approximately six Inches (6") of R-19 insulation, the ceiling shall contain approximately Ten Inches (10") of R-30 insulation and there shall be approximately Two Inches (2") of R-10.5 insulation under the floor. All Storage Units will be constructed with water and sewer utility line hook-ups available. Unit Owners shall pay Declarant or the Association, as the case may be, an additional tap-in fee to access the same.

(B) Additional Condominium Property Specifications

1. The Condominium Property drawings may be amended from time to time by the Declarant.
2. Other improvements on the land shall include driveways, landscaping and underground and above ground conduits and appurtenances for utilities.
3. The designation of each Unit and a statement of its percentage of interests in the Common Elements in the Association for voting purposes, and in the common expenses for assessments is set forth in the Bylaws hereto attached.
4. The location, layout and dimensions of the buildings, the locations and dimensions of the Units, the approximate area of each Unit in square feet, the immediate Common Elements and Limited Common Elements to which each Unit has access, the location and dimensions of the Limited Common Elements, and other matters are shown graphically on the Drawings.
5. Declarant may at any time relocate, add or remove in whole or in part, partitions within any Units owned by Declarant, provided that structural and bearing walls and walls containing utility lines serving other Units may not be relocated or removed. Each Unit Owner may partition

the interior of his Unit in any way he elects. The interior layout of the Condominium Units is shown by the Drawings as such bays and layouts exist and are created by virtue of the non-movable structural and bearing walls and walls containing utility lines serving other Units.

5. DIVISION OF CONDOMINIUM PROPERTY

The Condominium Property is hereby divided into One (1) Club House and Office Building, containing One (1) Office Unit, the Common Element Club House and separate men's and women's ADA compatible bathroom facilities.

6. UNITS

Each of the Units shall consist of all of the space bounded by the vertical planes formed by the respective undecorated interior surfaces of the perimeter walls, and horizontal planes formed by the ground floors and by the dry wall or other coverings beneath the roof rafters of each Unit, and including without limitation the following:

(A) The decorated surfaces including paint or any other finishing materials applied to said perimeter walls, floors, and rafter coverings, and the finishing materials and coverings applied to the interior walls, floors, and rafter coverings.

(B) The receptacle, switch plates, covers grills, vents, vent covers, registers, and other coverings of space, light fixtures, and control knobs within the bounds of a Unit and which serve only that Unit.

(C) All non-structural interior walls (other than walls separating Units) and all space between interior walls, including the space occupied by structural and component parts of the building and by utility pipes, wires and conduits within the bounds of a Unit.

(D) Without limiting the foregoing, all space occupied by any Common Elements located within the bounds of a Unit.

But excepting therefrom all of the following items which to the extent they are Limited Common Elements and are to be used and enjoyed by the Unit Owner in or to which may hereinafter be located or relocated and defined as.

(A) All walls, floors, ceilings, and rafter coverings separating or delineating Units except the decorated surfaces thereof.

(B) All doors, door jambs, door lifts and controls, floors, ceilings, and roofs.

(C) All structural portions of the building lying within the bounds of the Unit.

(D) All heating, cooling and ventilating equipment, even though located within and serving only one Unit, and all parts, insulation, and appurtenances thereto, including the thermostats and control devices.

(E) All plumbing, electrical, heating, cooling, ventilating and other utility or service lines, pipes, ducts, outlets, conduits and valves existing within a Unit to their place of connection. To valves, registers, grills, outlets, light fixtures, and receptacles within a Unit and/or to their tap, plug, or shut off valve within a Unit, and all such lines, pipes, ducts, wires, plugs, outlets, conduits, and valves which serve or may serve more than one Unit.

(F) The valves, plugs and switches at the end of any lines, pipes, and wires which constitute common facilities.

(G) Without limiting the foregoing, all Common Elements and Limited Common Elements located within the bounds of a Unit.

(H) The dimensions, the number of square feet of floor space in each Unit, the Common Elements, and Limited Common Elements to which each Unit has access, the location, and layout of each Unit, and the description of all Units are shown graphically on the Drawings.

7. COMMON ELEMENTS

(A) Description

The Common Elements are all of the Condominium Property except the Units. Without limiting the generality of the foregoing, the Common Elements include the following, whether or not located within the bounds of a Unit.

1. The yards, gardens, trees, lawns, driveways, walks, and pavements.
2. The heating and ventilating units and all parts, ducts, and installations related thereto for each Unit although these are Common Elements each is reserved for the use of a certain Unit to which it is appurtenant to the exclusion of other Units and as such these are Limited Common Elements as hereinafter described.
3. Installations of any central or common services such as water and gas and common meters, therefore, and all pipes storm and sanitary sewers, ducts, wires, conduits, television lines for any cable antenna television service receptacles, switches, grills thermostats and control devices which are a part of or used in conjunction with any of the foregoing.
4. All apparatus and installations existing for common use.
5. All other parts of the Condominium Property necessary or convenient to its existence, maintenance and safety or normally in common use, or which have been designated as Common Elements.
6. All repairs and replacements of any of the foregoing.
7. Any room or structure within or attached to the building containing common facilities such as water, and gas meters electrical panels, switches and other utilities and mechanical.

8. OWNERSHIP OF COMMON ELEMENTS; PERCENTAGE OF INTEREST

The Common Elements comprise in the aggregate a single freehold estate, shall be owned by the Unit Owners as tenants in common and shall remain undivided. No action for partition of any part of the Common Elements shall be maintainable except as provided in Chapter 5311, nor may any Unit Owner otherwise waive or release any rights in the Common Elements; provided however that if any ownership interest be owned by two or more co-owners as tenants in common or as joint tenants nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of such ownership interest as between such co-owners.

The percentage of undivided interest in the Common Elements appertaining to each Unit and its owner, and the percentage of interest of each Unit in the Association for voting purposes for the distribution of Common Profits, for the assessment and payment of Common Expenses and for all other purposes shall be in the proportion to the size (in square feet) that each Unit bears to the aggregate size (in square feet) of all the Units having an interest in the Common Elements, rounded to the nearest whole number. Until changed pursuant to this Declaration, the percentages of ownership of the Common Elements appurtenant to the Units shall be as follows:

<u>Unit Designation</u>	<u>Percentage</u>
1	5.55%
2	5.55%
3	5.55%
4	5.55%
5	5.55%
6	5.55%
7	5.55%
8	5.55%
9	5.55%
10	5.55%
11	5.55%
12	5.55%
14	5.55%
15	5.55%
16	5.55%
17	5.55%
18	5.55%

In the event that Declarant elects to construct additional Units on part or parts of the Additional Property, the interest in the Common Elements appurtenant to the Units in the Additional Property shall be computed in the proportion of the size of each Unit with the aggregate size of all of the Units, rounded to the nearest whole number.

The undivided percentage of interest of each Unit Owner in the Common Elements, as said percentage of interest and Common Elements may exist from time to time shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered with its respective Unit even though the description in any instrument of conveyance or encumbrance refers only to the Unit.

9. USE OF COMMON ELEMENTS

(A) Except as otherwise limited and restricted herein each Unit Owner shall have the right to use the Common Elements in the accordance with the purposes for which they are intended, for all purposes incident to the use and occupancy of his Unit, including without limitation the non-exclusive easement together with other Unit Owners, to use and enjoy the Common Elements for ingress and egress to and from the respective Units, and for such other uses as are permitted by this Declaration and the Bylaws, which rights shall be appurtenant to and run with his Unit, provided however that no person shall use the Common Elements or any part thereof in such a

manner (i) as to interfere, restrict, impede the use thereof by others entitled to the use thereof or in any manner contrary to, or (ii) that is not in accordance with this Declaration, the Bylaws, and the rules.

(B) The Association shall, subject to the provisions of this Declaration and the Bylaws, have the right but not the obligation, to promulgate rules and regulations limiting the use of the Common Elements and governing the use of the exclusive use areas.

10. LIMITED COMMON ELEMENTS AND THE USE THEREOF

Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy to the exclusion of all others the Limited Common Elements which are located within the bounds of his Unit or which serve only his Unit.

(A) All structural interior walls and one-half of any wall separating one Unit from the other, doors including the entrance door to each Unit and all hardware attached thereto, floors, ceilings, and attic or rafter ceilings located within the bounds of such Unit, excluding the structural and component parts thereof.

(B) All door frames within the perimeter walls of such Unit and all doors hinges, locks, latches and hardware within or on the perimeter walls of such Unit or on the Limited Common Elements belonging to such Unit.

(C) All ducts and plumbing, electrical, and other fixtures equipment and appurtenances including heating, cooling and ventilating equipment and systems, thermostats and control devices if and any sanitary and storm sewer cleanouts located within the bounds of such Unit or located outside the bounds of a Unit but serving a particular Unit, and the structure and space thereof, if any located outside such Unit containing equipment serving only such Unit.

(D) All gas, electrical, water or other utility or service lines, pipes, wires, and conduits located within the bounds of such Unit and which serve only such Unit.

(E) Entrances and the walk, concrete slab and/or asphalt and landscaping therein, adjacent to and serving each Unit.

(F) All other Common Elements located within the bounds of such Unit and which serve only such Unit.

Subject to the rights of the Association to maintain for and on behalf of the Unit Owners all or parts of the Limited Common Elements, each Unit Owner has the responsibility of maintaining the Limited Common Elements appurtenant to his Unit as hereinafter provided.

11. EXCLUSIVE USE AREAS

Each Unit Owner is hereby granted an exclusive but revocable license to use and enjoy such exclusive use areas as the Association may allocate to such Unit Owners upon and subject to such terms and conditions as the Association may determine without limited the generality of the foregoing. The Association may also hereafter designate specific, clearly defined parts of the Common Elements for a particular use or uses which serve the general welfare of all or a number of the Unit Owners and are beneficial to the Condominium Property. All such part or parts and use thereof shall at all times be subject to such rules, terms and conditions as may be promulgated by the Association and shall at all times be subject to change and removal from the exclusive use areas by the Association.

Without limiting the generality of the foregoing, the Association may at any time and from time to time revoke any license granted hereunder and reassign the use of such areas in accordance with such rules as it may establish from time to time. The Association may require that maintenance of any exclusive use areas shall be the sole responsibility of the licensee and/or user thereof.

12. EASEMENTS

The Condominium Property is hereby made subject to the following easements and reservations of easements, all and each of which shall, unless otherwise expressly provided be in perpetuity, run with the land, and insure to the benefit of and be binding upon the Declarant, each Unit Owner, each mortgagee in whose favor a mortgage shall be granted with respect to any Unit and any other person having an interest in the Condominium Property, or any part thereof, and the respective heirs, devisees, administrators, executors, personal representatives, successors, and assigns of any of the foregoing persons:

(A) Encroachments

If by reason of the construction, repair, restoration settlement or shifting, or partial or total destruction and rebuilding of the building or improvements constituting a part of the condominium property, any part of the Common Elements or another Unit or Units, or if by reason of the design or construction of any Unit it shall be necessary and advantageous to a Unit Owner to use or occupy for formal use and purposes any portion of the Common Elements consisting of unoccupied space within the building and adjoining his Unit, or if by reason of the design, construction, or rebuilding of utility systems, any pipes, ducts or conduits serving any part of the Condominium Property encroaches upon any part of any Unit or upon any part of the Common Elements, easements for the existence and maintenance of such encroachment and for the use of such space are hereby established and shall exist for the benefit of such Unit Owners and the owners of the Common Elements as the case may be, provided however that in no event shall an easement for any encroachment be created in favor of the owner of any Unit or in favor of the owners of the Common Elements if such encroachment occurred due to the willful conduct of said owner or owners.

(B) Easements for Maintenance and Alterations

Easements in favor of the Association in and over the Units and Limited Common Elements for access as may be necessary for the purpose of maintaining the Common Elements and easements in favor of each Unit Owner over the Common Elements for access to his Unit, including, without limitation, the Easement and Reservation set forth in the Bylaws, Attachment #2.

Easements in favor of each Unit Owner to and through the Common Elements as may be necessary for the use of water, gas, sewer, power, and other utilities now or hereafter existing within the walls and for the use of any community antenna television cables and equipment installed by the Association or by an independent company to serve the Units for a fee or free of charge. Easements in favor of each Unit Owner to apply, attach, affix, maintain, repair or replace, plaster, drywall, paint wood and other finishing material to or upon the interior perimeter ceilings, floors, walls of such Unit Owners Unit and to install, construct, maintain, repair or replace non-

structural interior walls and partitions within the perimeter ceilings, floors and walls of such Unit Owners Unit.

(C) Easements through Walls in Units

Easements are hereby granted to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of the Units whether or not such walls lie in whole or in part within the Unit boundaries.

(D) Easements to Others

Easements of record affecting the Condominium Property at the time this Declaration is filed for record with the Delaware County Recorder, none of which adversely affects the purpose of the Condominium Property as established by this Declaration. Such easements include, but are not limited to, that certain Right of Way and Easement made for the benefit of Columbus and Southern Ohio Electric Company, and its successors, assigns and licensees, and recorded as Deed Book 361, Page 295 of the Delaware County, Ohio Recorder's Office records.

Such easements as the Association or the Declarant, as the case may be, from time to time grants to others, including, without limitation, access easements to the City of Powell, including the proposed easements shown on the Drawings, and easements for utility purposes including but not limited to the right to install, lay, maintain, repair, and replace water lines and pipes, gas mains, telephone wires and equipment, electrical conduits and wires, in over and under any portion of the Common Elements provided that it shall be a condition to the use and enjoyment of any such easements that the grantee or grantees of any such easements shall at its or their expense restore the Common Elements to the same condition as existed prior to the installation of any such utility improvements. Each Unit Owner and his respective mortgagees by acceptance of a deed conveying such ownership interest or a mortgage encumbering such ownership interest, as the case may be, hereby irrevocably appoints the Association or the Declarant, as the case may be, as his Attorney in fact coupled with an interest, and authorizes, directs, and empowers such attorney, at the option of the attorney, to execute acknowledge and record for and in the name of such Unit Owner and his mortgagees such easements or other instruments as may be necessary to effect the foregoing.

(E) Deeds and Mortgages Subject to Easements

Each conveyance of a Unit and each mortgage with respect to any Unit shall be subject to and have the benefit of (as the case may be) each of the easements herein provided in the same manner and to the same extent as though such easements were expressly provided for and fully set forth in the deed of conveyance or mortgage (as the case may be) or reference to such easements.

(F) Damage Resulting from Exercise of Easements

All damage caused to the Condominium Property or the property of any Unit Owners as a result of any act or work performed pursuant to the authority granted or reserved or as a result shall be repaired, replaced or corrected as necessary promptly by the person performing the action and by the grantee or holder of the easement being exercised, at the cost and expense of

such person so that any such Condominium Property or other property so damaged will be restored or replaced to the condition in which it existed immediately prior to its damage.

13. PURPOSES OF CONDOMINIUM PROPERTY; COVENANTS AND RESTRICTIONS AS TO THE USE AND OCCUPANCY

The following covenants, restrictions, conditions and limitations as to the use and occupancy of the Condominium Property, which shall run with the land, shall be binding upon each Unit Owner, his heirs, tenants, licensees and assigns.

(A) Purpose of the Condominium Property

The purpose of the Condominium Property and of the Units and facilities situated therein are for non-residential office and/or storage use. Office Units shall be used as commercial offices and, if applicable, storage facilities. Storage Units shall be used strictly for storage and for no other purpose, except that Declarant may use any Units owned by the Declarant as model Units for the sale and/or leasing of such Units and other Units owned by the Declarant and for sales offices.

(B) Obstruction of Common Elements

There shall be no obstruction of the Common Elements nor shall anything be stored on any part of the areas outside the buildings or Units. Nothing may be stored which creates a hazardous, dangerous or unsafe condition or violates any applicable codes, rules or regulations.

(C) Changes in appearance and alterations in the Common Elements outside the buildings.

No changes shall be made in the appearance of any part of the Common Elements, including without limitation the material constituting the exterior and interior fascia of the building and the color of the paint thereon without the prior written consent of the Declarant or the Association, as the case may be. This restriction shall not apply to the making of repairs and replacements, painting and similarly maintaining the restoring the improvements on the land in and to the condition, which they were in and the appearance they had at the time this Declaration was filed for record.

(D) Signs, Etc.

Except for signage installed by Declarant for the Club House and Office Units, no sign, (including "for sale" signs) awning, canopy, shutter, screen, radio or television antenna, or anything else shall be displayed from affixed to, or placed upon the exterior walls, doors, or roofs of the building, or from, to or upon any other part of the Common Elements outside the buildings without the written permission of the Declarant or the Association or its representative as designated by the management agreement, as the case may be.

(E) Limited Common Elements

The Limited Common Elements shall not be altered, decorated, landscaped, or adorned in any manner contrary to such rules as may be established therefore, nor shall they be used in

any manner other than their obviously intended purposes without the prior written consent of the Association or the Declarant, as the case may be.

(F) Alterations of the Common Elements

No alterations, changes, removal, additions, or improvements shall be made to any part of the Common Elements (including the exterior walls, doors or roofs of the building) unless approved by the Declarant or the Association.

(G) Impairment of structural integrity of buildings

Nothing shall be done in any Unit or in, or to the Common Elements which will impair the structural integrity of the building or which would structurally change the building.

(H) Hazardous Uses and Waste

Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of the buildings or contents thereof. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance of the building, or which would be in violation of any law. No waste of any of the condominium property will be committed.

(I) Impairment of Easements

The use and enjoyment of the easements herein if any created, provided for, or referred to shall not be impaired without first obtaining the written consent of the Association or the Declarant, as the case may be, and of any other person, firm or corporation for whose benefit such easement exist.

(J) Interference with use of Common Elements

The Common Elements and every part thereof shall be used in such manner as not to interfere with, restrict or impede the use thereof by others entitled to the use thereof and in accordance with this Declaration the Bylaws and the rules.

(K) Animals and pets

No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Elements. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property immediately.

(L) Quiet Hours; Nuisances

Quiet hours shall be observed by any Unit Owner and any Person that enters upon or uses any portion of the Condominium Property during the hours from 10:00 p.m. (Eastern Time) and 8:00 a.m. (Eastern Time); accordingly, no such activity shall occur during such times that unreasonably causes or permits noise or sound to be heard or detected outside of the Condominium Property. Each Unit Owner shall ensure that all exterior doors to such Unit Owner's Unit shall be closed during the hours from 10:00 p.m. (Eastern Time) and 8:00 a.m. (Eastern Time) other than temporary openings for purposes of exiting or removing personal property from a Unit. No Unit Owner shall cause nor permit any Person who is a user of any Unit or the

Condominium Property or an invitee, licensee, contractor, tenant, of such Unit Owner to operate any unmuffled engines during the hours from 9:00 p.m. (Eastern Time) and 8:00 a.m. (Eastern Time). Additionally, no noxious or offensive activity, which shall be determined in the sole discretion of the Board or the Declarant as the case may be, shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently which may be or become an annoyance or nuisance to the other Unit Owners.

(M) Laundry or rubbish in Common Elements

No clothes, sheets, blankets, or laundry of any kind shall be hung out or exposed in any part of the Common Elements. The Common Elements shall be kept free and clear of garbage, rubbish and debris and other unsightly material.

(N) Prohibited Activities

Other than in the construction and completion of the permanent improvements to be located on the Condominium Property, no painting of any type or nature shall be permitted on any portion of the Condominium Property. No welding, fusing or brazing of any metals involving open flames or arcing of metals shall be permitted on any portion of the Condominium Property. No overnight stays or installation of sleeping accommodations shall be permitted on any portion of the Condominium Property. Heavy maintenance or repairs may not be performed in or around the Condominium Property. No Unit or any portion of the Condominium Property shall be used as: (i) a massage parlor; (ii) a facility for the sale or paraphernalia for use with illicit drugs; (iii) a facility for the sale or display of pornographic material (as determined by community standards for the area in which the Condominium Property is located); (iv) an off-track betting parlor; or (v) a facility for any other activity that is prohibited by the Board. No manufacturing, retail selling or construction may be performed in or around the Storage Unit buildings. There shall be no unattended outside parking and no overnight parking on any of the Condominium Property for periods in excess of seventy-two (72) hours. The Condominium Property is a commercial condominium and shall not be used for providing overnight accommodations, as residential housing or to facilitate transient living. No Unit or any portion of the Condominium Property shall be used for the collection or holding of refuse, rubbish, hazardous substances, or substances that would or could cause environmental hazards, excepting for within any exterior dumpsters located upon the Common Areas that are for the mutual benefit of the Unit Owners.

(O) Rentals

No Unit shall be rented for transient, temporary housing or hotel purposes or any residential rental. Other than the forgoing obligations the Unit Owners of the respective Units shall have the right to lease the same, provided that the lease is made subject to the covenants and restrictions in this Declaration and the Bylaws and shall be governed by the rules of the Association. Declarant shall not lease or rent any Units for transient or hotel purposes.

14. THE ASSOCIATION

The Association has been, or will be formed, to constitute the "Unit Owners' Association", as that term is defined in ORC § 5311.01(DD). Each Unit Owner shall be a member of the

Association which shall be established for the administration of the Condominium Property. The Association shall serve as the governing body for all of the Unit Owners for the protection, improvement, alteration, expansion, augmentation, disposal, divestment, re-description, maintenance, repair, replacement, administration and operation of the Condominium Property, the assessment of expenses, payment of losses, disposition of hazard insurance proceeds received by the Association, and other matters as provided in this Declaration, in the Articles, in the Bylaws, and the rules and regulations adopted from time to time by the Association (herein referred to as the rules and regulations) (herein the Declaration, the Articles, the Bylaws and the rules and regulations of the Association, all as may be amended from time to time, sometimes collectively referred to herein as the "Governing Documents") or if not provided in the Governing Documents, as provided in the Act. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Unit Owners in accordance with the provisions of the Governing Documents or the Act, if applicable. Each Unit Owner shall be a "Member" of the Association as soon and so long as he shall be a Unit Owner. Such membership shall automatically terminate when a Unit Owner ceases for any reason to be a Unit Owner, and the new Unit Owner shall likewise automatically succeed to such membership in the Association. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Unit to which it is appurtenant (and then only to the purchaser involved in such sale) or by intestate succession, testamentary disposition, foreclosure of a Mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the person to whom such fee simple title is transferred). Any attempt to make a prohibited transfer of a membership will be void and will not be recognized by or reflected upon the books and records of the Association. In the event the Unit Owner of any Unit should fail or refuse to transfer the membership registered in his name upon the sale of such Unit Owner's Unit to the purchaser or other valid transferee of such Unit Owner's Unit, the Association shall have the right to enter a transfer upon the books of the Association and issue a new membership to the purchaser or other valid transferee and thereupon the old membership outstanding in the name of the seller or prior Unit Owner shall be null and void as though the same had been surrendered.

(A) *Interim Administration by Declarant*

Except as provided in the Bylaws, or elsewhere in the Declaration, the Declarant, unless it so chooses to relinquish the rights to the Association Board of Directors at an earlier date, shall be authorized either through its own actions or persons designated by it, to appoint and remove members of the Board of Directors and other officers of the Association, and to exercise the powers and responsibilities otherwise assigned by law or this Declaration or Bylaws to the Association, the Board of Directors or other officers. Such authorization, unless sooner terminated by the Declarant, shall extend from the date of the establishment of the Association until the earlier of five (5) years from the date the Association is established (subject to extension of five (5) years from the date of any supplemental declaration in the event that any additional units are added as provided for in Section 23 hereof), or sixty (60) days after the sale and conveyance of all Units to purchasers in good faith for value. Unless the Association shall have sooner met to elect members of the Board of Directors as provided in the Bylaws, within sixty (60) days after the expiration of any period during which the Declarant exercises control under this

paragraph, the Association shall meet and elect all members of the Board of Directors and all other officers of the Association.

(B) Board of Directors

The board of directors of the Association ("Board of Directors") shall be those three (3) persons from time to time designated and elected pursuant to the Bylaws. The Board of Directors shall exercise the powers, discharge the duties and be vested with the rights conferred by operation of law, by the Bylaws, by the Association's governing documents and by this Declaration upon the Association.

(C) Board's Determination Binding

Except to the extent that the terms of this subsection 14(C) may be prohibited by law, in the event of any dispute or disagreement between any Unit Owners relating to the Condominium Property, or any questions or interpretation or application of the provisions of the Governing Documents, the determination thereof by the Board shall be final and binding on each and all of such Unit Owners.

(D) Action by Owners

To the extent permitted by the Act, all actions required to be taken by the Unit Owners, acting as a Unit Owners Association for the Condominium Property, shall be taken by the Association acting as such Unit Owners Association, by and through its directors and officers, such actions to include, without limitation, adoption or ratification of the Bylaws and rules and regulations for the Condominium Property created hereby.

(E) Additional Provisions in Articles, Bylaws and Rules and Regulations of the Association. The Articles, Bylaws and rules and regulations of the Association may contain any provision not inconsistent with the Act or other applicable law or with this Declaration.

(F) Other Voting Provisions

All other provisions not provided for herein regarding the voting of Unit Owners and the meetings of Unit Owners, the quorum necessary to vote at any such meeting, proxies and all other matters not specifically provided for herein shall be as provided in the Bylaws of the Association; provided, however, that no provision in the Bylaws shall be inconsistent with this Declaration, any required provisions of the Act and any other applicable law.

(G) Transferability of Ownership Interest Only with the Consent of the Board and In Conjunction with Transfer of Unit. All Ownership Interests shall be transferable only as provided in this Declaration and with written consent of the Board (such consent not to be unreasonably withheld) and in compliance with such regulations as the Board shall adopt from time to time and such Ownership Interest shall be transferable only in conjunction with the transferor's simultaneous transfer of his or its Unit within the Condominium Property all subject to such reasonable transfer fees and charges as the Declarant or the Board, as applicable, shall establish. Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale or other transfer of the Unit to which it is appurtenant (and then only to the purchaser or other transferee involved in such sale or transfer) or by intestate succession,

testamentary disposition, foreclosure of a mortgage of record or other legal process transferring fee simple title to such Unit (and then only to the person to whom such fee simple title is transferred). Any attempt to make a prohibited transfer of an Ownership Interest will be void and will not be recognized by or reflected upon the books and records of the Association.

(H) Prohibited Transfer of Ownership Interest

Any purported transfer or conveyance of any Ownership Interest in contravention of the Governing Documents shall be void and of no force and effect. Further, if the Association is required to incur expenses (including but not limited to attorneys' fees) to enforce this restriction, such Unit Owner shall be liable to the Association for all such expenses.

(I) Suspension and Termination of Membership

The Board (upon the recommendation of the safety committee or such other committee which the Board deems appropriate) shall take such disciplinary action and adopt such disciplinary regulations which it deems appropriate including suspension or termination of membership in the Association by any Unit Owner, occupant or other Person.

(J) Service of Process

The person to receive service of process for the Association shall be legal counsel for the Association, from time to time. The initial person to receive service of process is Todd Ernsberger, Onda, LaBuhn, Rankin & Boggs Co., LPA 35 North Fourth Street, Suite 100, Columbus, Ohio 43215.

15. DUTIES OF THE ASSOCIATION

(A) Management

The Association shall manage the Condominium Property and the affairs of the Condominium with the right, however to delegate its obligations as hereinafter provided.

(B) Changes by Necessity

If changes, modifications, or alterations should found to be necessary to eliminate or correct construction defects to provide alternate energy, or utility services or comply with new codes and regulations or for other similar or dissimilar reasons within the logical intent of this subparagraph, the Association may cause or authorize such changes, or modifications and/or alterations to be made to the Common Elements as are reasonable necessary by the affirmative vote of a majority of the Board.

(C) Common Elements

Except as otherwise expressly provided herein the Association shall maintain and keep the Common Elements in a state of good working order, condition and repair, in a clean neat safe, and sanitary condition, and in conformity with all laws, ordinances and regulations applicable to the Common Elements, by promptly properly and in a good and workmanlike manner, making all repairs, replacements, alterations and other improvements necessary to comply with the foregoing, the obligations herein described shall include without limitation:

1. Maintaining, planting, seeding, re-seeding, fertilizing cutting and trimming all of the lawns comprised within the Common Elements.

2. Performing all of the obligations imposed a landlord under Chapter 5321 of the Ohio Revised Code (and under the applicable laws, ordinances and regulations) to the extent such obligations relate to Common Elements and to the extent such obligations do not relate to the Limited Common Elements which Unit Owners are obligated herein to perform.

(D) Units and Common Elements in Units

Except as may otherwise be expressly provided herein the Association shall keep and maintain in a state of good condition and repair those parts of each Unit which contribute to the support of the building, excluding however the surfaces of interior walls, ceilings and floors by making all repairs replacements, alterations and other improvements necessary to comply with the foregoing promptly, properly and in a good workmanlike manner. In addition, the Association shall maintain, repair, replace, alter and improve (in the same manner) all conduit, ducts, plumbing, wiring, equipment, and other facilities for the furnishing of utility services which are used by or for are common to two or more Units even though such facilities are located within the boundaries of a Unit. In a Unit or Limited Common Elements appurtenant to a Unit become impaired in a neglected state or otherwise in need of repair or restoration, and if the Unit Owner thereof fails after notice from the Association to repair, restore or otherwise correct the condition the Association may but shall not be obligated to repair, restore or otherwise correct the condition. The Association shall charge and assess the cost and expense thereof to the Unit Owner who was obligated to perform the work.

(E) General Duties

The Association shall do any and all other things necessary and appropriate to carry out the duties and obligations reasonably intended to be required of it under this Declaration and Chapter 5311.

(F) Delegation of Authority (Managing Agent)

The Association may but shall not be required to delegate all or any portion of its authority and responsibilities to a manger, managing agent or management company. Such delegation may be by a management contract which shall provide for the duties to be performed by the managing agent and for the payment to the managing agent of a reasonable compensation as a common expense which management agreement shall be substantially similar to the Management Agreement attached to the Bylaws, Attachment #3. Upon the expiration of each management agreement the Association may renew said management agreement or enter into a different agreement with the same or different managing agent. Any agreement for management of the Condominium Property or any contract providing for services to be performed by the Declarant for the Association shall provide for termination by the Association with or without cause and without payment of a termination fee or penalty after such time after Declarant turns over control of the Association as provided for in Section 14(A) hereof on thirty (30) days written notice.

16. DUTIES OF UNIT OWNERS

Each Unit Owner shall comply with the following:

(A) Maintenance and repair

Except as may be otherwise expressly provided herein maintain, repair and replace at his expense in good working order, condition and repair all Limited Common Elements designated for his exclusive use including all doors and fixtures which are appurtenant to his Unit. Maintain, repair and replace, at his expense, in good working order, condition and repair all electrical fixtures, utility pipes, conduits and lines, plugs, connections and fixtures permanently affixed to the realty, and all heating, cooling and ventilating equipment, Units and installations and all ducts, controls filters and parts thereof located within his Unit. He shall keep at all times his Unit in a clean neat and sanitary condition, and in conformity with all laws, ordinances, and regulations applicable to his Unit or Units. Maintain, repair or by reason of breakage, damage, malfunction and/or ordinary wear and tear comply with the above mentioned. Maintain repair and replace at his expense all portions of the Condominium Property which may be damaged or destroyed by reason of his own act or neglect, the act or neglect of any Unit Owner of his Unit or Units, or the act or neglect of any invitee, licensee or guest of such owner. Notwithstanding the foregoing obligation of the Unit Owner the Association (or other Unit Owner in respect to his own Unit) may but shall not be obligated to repair and replace the property damaged or destroyed by reason of the act or neglect of a Unit Owner or their invitee, licensee or guest, and charge and collect from such Unit Owner the cost and expense paid or incurred in making any such repair or replacement. If the repair or replacement is made by the Association, the cost and expense thereof shall be a lien against the Unit Owner's ownership Interest which the Association may assert and collect in the same manner as the Association may assert and collect a lien against the Unit Owner's Ownership Interest for nonpayment of his share of assessments for Common Expenses. The right herein of the Association to assert and collect upon a lien shall not be exclusive but shall be in addition to all other rights and in equity, for recovery of the cost and expense so incurred. All of the work required of the Unit Owner shall be performed by him promptly, properly, and in good workmanlike manner, using first-class materials of equivalent or better quality than those originally installed or incorporated into the Condominium Property, and using competent and qualified labor.

(B) Report Defects

Report promptly to the Association or Managing Agent of The Association, the need for any maintenance or repair to any portion of the Condominium Property which the Association is obligated to maintain or repair pursuant to this Declaration or the Bylaws.

(C) Non-disturbance of Others

Unit Owners shall perform his duties and responsibilities in such manner so as not to unreasonable disturb other Unit Owners.

(D) Pay for Utilities

Unit Owners shall pay all costs for utility services (such as, without limitation Electric and Gas service).

(E) Comply with this Declaration

Faithfully and promptly pay all charges and assessments made against him or his Ownership Interest pursuant to this Declaration; and faithfully observe, fulfill and perform all of the covenants and restrictions herein contained and all other obligations of a Unit Owner as set forth (or intended by this Declaration, the Bylaws, the Rules, and Chapter 5311.

(F) Deeds, etc.

Include both his interest in the Unit and his corresponding percentage of interest in the Common Elements in every deed, mortgage, lease or other instrument affecting title to his Ownership Interest, it being the intention hereof to prevent any severance of such combined ownership. In furtherance of the foregoing responsibility and obligation and not in limitation thereof of any deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taking to include the interest so omitted even though the latter is not expressly mentioned or described therein.

17. CONSTRUCTION DEFECTS

The obligation of the Association and of the Unit Owners to maintain, repair and replace the portions of the Condominium Property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material or workmanship in the construction of the Condominium Property. The undertaking of maintenance repair or replacement by the Association or Unit Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved.

Notwithstanding the fact that the Association and/or any Unit Owner may be entitled to the benefit or any guarantee or warranty of material or workmanship furnished by any construction trade responsible for any construction defects, or to benefits under policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of construction guarantees or insurance coverage shall not excuse any delay by the Association or any Unit Owner in performing its or his respective obligations hereunder.

18. ASSESSMENTS: COMMON EXPENSES AND COMMON PROFITS

(A) General

Assessments for the Common Expenses shall be made in the manner provided herein and in the Bylaws.

(B) Common Expenses

Unit Owners share of the Common Expenses shall be assessed against, the Unit Owners by the Association in accordance with the percentages of interest in the Common Elements appertaining to the respective Units of the Unit Owners. Every Unit Owner shall pay his proportionate share of assessments for Common Expenses in such manner and at such times as provided herein and in accordance with the Bylaws as set forth by means of a designated maintenance fee. Notwithstanding anything to the contrary contained herein, neither the Association nor the Declarant, as the case may be, shall be obligated to pay Common Expenses

or fees for any Unit owned by the Association or the Declarant, unless the Unit is leased to a third party.

(C) *Non-Use of Facilities*

No Unit Owner may exempt himself from liability for assessments levied against him by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit.

(D) *Dispute as to Common Expenses*

Any Unit Owner who believes that improper assessments levied against him or his Unit, by the Association, may bring an action in the Common Pleas Court of Delaware County, Ohio for the discharge of all or any portion of such Assessments.

(E) *Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses*

Where the mortgagee of a first mortgage of record acquires an Ownership Interest in a Unit as a result of foreclosure of the first mortgage or of the acceptance of a deed in lieu of foreclosure, such mortgage or of the acceptance of a deed assigns, shall not be liable for the assessments levied against Ownership Interest in such Unit by such mortgagee, its successors and assigns. Any funds received on the judicial sale of the Unit in excess of the first mortgage lien, the court costs, and the real estate taxes shall, however, be paid over to the Association, to the extent of the unpaid assessment due to the Association. The owner or owners of a Unit prior to the judicial sale thereof or to the conveyance in lieu of foreclosure shall be and remain personally and primarily liable, jointly and severally, for the assessments against the judicially sold or voluntarily conveyed Unit up to the date of the judicial sale or conveyance, but any unpaid part of the assessments shall be deemed to be Common Expenses and shall be assessed and levied against all of the Unit Owners, including the new owner of the Unit foreclosed.

(F) *Liability for Assessments Upon Voluntary Conveyance*

In voluntary conveyance of an Ownership Interest the grantee of the Ownership Interest shall be jointly and severally liable with the grantor for all unpaid assessments levied by the Association against the grantor and his Unit prior to the time of the grant or conveyance, without prejudice, to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such prospective grantee shall upon written request delivered to the President or Secretary of the Association be entitled to a statement from the Board setting forth the amount of all unpaid assessments due the Association with respect to the Ownership Interest to be conveyed, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments which become due prior to the date of the making of such request if the same are not set forth in such statement.

19. INSURANCE AND CASUALTY LOSSES

(A) *Insurance*

The Association shall obtain the following insurance:

(a) Insurance for all of the improvements constituting the Common Elements (including all personal property owned in common and including all Limited Common Facilities) against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard; such insurance may have a deductible clause in a reasonable amount (\$1,000.00 shall be considered a reasonable amount at the time this Declaration is filed for record); and the vandalism insurance may have a deductible clause in any amount selected by the Association;

(b) insurance against liability for personal injury or property damage arising from or relating to the Common Elements in an amount of at least \$1,000,000.00 single limit as respects both bodily injury and property damaged; and

(c) insurance against liability for personal injury or property damage arising from or relating to the Condominium Property (that is the Units as well as the Common Elements) in an amount of at least \$1,000,000.00 single limit as respects both bodily injury and property damage; but such insurance to protect only the Association, the Managing Agent of the Condominium (and its agents, employees and contractors), the members of the Board and the Association's contractors, agents and employees.

The Association may obtain such other insurance as it deems desirable, including, without limitation, insurance to cover the Association's indemnity under the Bylaws, debris removal insurance, fidelity bonds, and insurance to provide some relief from monthly assessments on behalf of a Unit Owner whose Unit is rendered uninhabitable by a peril insured against. Premiums for all such insurance and bonds shall be a common expense. All such insurance coverage obtained by the Association shall be written in the name of the Association (and/or of the Managing Agent of the Condominium) as Trustee for the Association, for each of the Unit Owners, and for the holders of mortgages upon the Ownership Interests, as their interests may appear.

(B) General Provision Governing Insurance

All insurance affecting the Condominium Property shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of Ohio and holding a rating of "A-" or better by Best's Insurance Reports.

(b) All policies shall be for the benefit of the Association, the Unit Owners, and their mortgagees as their interests may appear;

(c) provisions shall be made for the issuance of a certificate of insurance to each Unit Owner and his first mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular Unit Owner's Ownership Interest.

(d) The original of all policies and endorsements thereto shall be deposited with the Insurance Trustee or Managing Agent.

(e) Exclusive authority to adjust losses under policies hereafter in force on the Common Elements shall be vested in the Board; provided; however; that no first mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(f) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their mortgagees.

(g) Each Unit Owner may obtain additional insurance at his own expense subject, however, to the following restrictions and conditions:

(1) No Unit Owner shall separately insure any part of the Condominium Property against loss by fire or except for the contents of his Unit or Units,

(2) No Unit Owner shall maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all Unit Owners and their mortgagees, may realize under any insurance policy which the Association may have in force on the Condominium Property at any particular time;

(3) The insurance which is carried by a Unit Owner shall be (I) such personal liability insurance as he may desire, (II) such insurance upon the Unit Owner's personal property as he may desire, and (III) casualty insurance upon betterments and improvements made by the Unit Owner to his Unit, such insurance to be limited to the type and nature of coverage often referred to as "Tenant improvements and betterments" and to provide expressly that it shall be without contribution as against the casualty insurance purchased by the Association;

(4) If any diminution in insurance proceeds on insurance purchased by the Association results from the existence of insurance purchased by a Unit Owner for the same casualty and loss as that covered by a policy purchased by the Association, then said Unit Owner shall be liable to the Association to the extent of any such diminution and/or loss of proceeds; and all proceeds of the Unit Owner's policies which were brought into proration with the policies of the Association shall be due and payable directly to the Association, it being agreed by the Unit Owner that his policies were purchased in trust and for the benefit of the Association.

(5) Each policy of insurance obtained by any Unit Owner shall contain, if obtainable, a clause or endorsement providing in substance that the insurance shall not be prejudiced if the insureds have waived right of recovery from any person or persons prior to the date and time of loss or damage, if any;

(6) Each Unit Owner who obtains an individual insurance policy covering any portion of the Condominium Property (excluding policies restricted to personal property belonging to such Unit Owner) shall file a copy of each such individual policy with the Secretary of the Association with thirty (30) days after purchase of such insurance.

(h) It shall be the responsibility of each Unit Owner at his own expense to provide, as he sees fit, title insurance on his Ownership Interest, homeowner's liability insurance for his Unit, shelter insurance during any period of restoration of damage to a Unit Owner's Unit, theft and other insurance covering improvements, betterments and personal property damage and loss. The Association shall have no responsibility or obligation to insure such matters or against such risks for or on behalf of the Unit Owners. In allocating among the Unit Owners any insurance proceeds received by the Association, the Association may adjust the proportionate share of such proceeds allocable to a Unit to reflect the matters which should be paid for by (and insured by) the Unit Owners.

(i) The Association shall conduct an annual Insurance review which may at the option of the Association include a replacement cost appraisal without respect to depreciation of all improvements constituting the Common Elements by one or more qualified persons.

(j) The Association shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Association, its Manager or the Unit Owners.

(2) That the master policy on the Common Elements cannot be canceled, invalidated or suspended on account of any one or more individual Unit Owner;

(3) That the master policy on the Common Elements cannot be canceled, invalidated or suspended on account of the conduct of any director, officer or employee of the Association or its duly authorized manager without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its Manager, any Unit Owner or mortgagee;

(4) That any "other insurance" clause in the master policy excluding individual Unit Owner's policies from consideration;

(5) That notwithstanding any provision of any policy which gives the carrier an option to restore damage in lieu of making a cash settlement therefore, such option shall not be exercisable in the case of removal of the Condominium Property from the provisions of Chapter 5311 as provided for in this Declaration; and

(6) That the coverage of any policy shall not be terminated for nonpayment of premiums without at least ten (10) days' written notice to each holder of a first mortgage upon a Unit of which such carrier or carriers have written notice.

(C) Insurance Trustee

(a) All insurance policies purchased by and in the name of the Association shall provide that proceeds covering property losses shall be paid jointly to the Association and a Trustee which shall be a banking institution with offices in Delaware County, Ohio having trust powers and at least Fifty Million Dollars (\$50,000,000.00) total capital and surplus, selected by the Board, which Trustee is herein referred to as the Insurance Trustee. Immediately upon the receipt by the Association of such proceeds, the Association shall endorse the instrument by means of which such proceeds are paid and deliver or cause to be delivered such instrument to the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. The Insurance Trustee has no obligation to inspect the property to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.

(b) The duty of the Insurance Trustee shall be to receive such proceeds as are paid and delivered to it and to their mortgagees and the Association, in the shares described below, but such shares need not be set forth in the records of the Insurance Trustee.

(c) Proceeds of insurance policies received by the Insurance Trustee shall be disbursed as follows:

(1) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, all expenses of the Insurance Trustee shall be first paid and the remaining proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such expenses of the Insurance Trustee and the cost of the repairs and reconstruction shall be disbursed to the Unit Owners in accordance with their percentage interests in the Common Elements. If there is a mortgage lien or liens on an Ownership Interest, the remittance to the Unit Owners thereof and their mortgagees shall be paid to them as their interests may appear. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(2) If it is determined that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as therein provided.

(3) Any and all disbursements of funds, whether such funds consist of insurance proceeds, special assessments, sales proceeds or any combination thereof, to be made by the Insurance Trustee for any purpose whatsoever, shall be made pursuant to and in accordance with a certificate of the Association signed by the President or Vice president and by the Secretary or an Assistant Secretary. If the damage or destruction is not to be repaired or reconstructed, the certificate shall so state and shall direct that disbursements be made by the Insurance Trustee as by law provided.

If the damage or destruction is to be repaired or reconstructed, the certificate shall direct the Insurance Trustee to make disbursements to those persons and in such amounts as may be specified therein and according to such procedures, in such amounts, and upon and pursuant to such lien waivers, statutory affidavits, applications, written authorizations submitted to it by architect or other person named therein as having been employed by the Condominium Association to supervise to make such repairs or reconstruction; or other documentation as may be specified in the certification.

The Insurance Trustee shall not incur any liability to any Unit Owner, mortgagee or other person for any disbursements made by it pursuant to and in accordance with any such certificates or written authorizations.

(D) Damage and Destruction

(a) Adjustment at Loss; Determination of Cost

Immediately after the damage or destruction by fire or other casualty to all or any part of the Condominium Property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Such costs may include professional fees and premiums for such bonds as the Board deems necessary. Repairs or reconstruction, as used in this subparagraph, means repairing or restoring the Common Elements to substantially the same condition in which they existed prior to the fire or other casualty. Each Unit Owner shall be deemed to have delegated, and does delegate upon acquisition of title to an Ownership Interest, to the Board or its agent, his right to adjust with insurance companies all losses under the Casualty Insurance policies in furtherance of this delegation, the Board, and its authorized agents, is and are hereby appointed the attorney-in-fact for all Unit Owners to negotiate loss adjustment on any and all of said policies.

(b) Responsibility for Restoration

In the event the Common Elements, or any part thereof, shall be damaged or destroyed, the Association shall promptly cause the same to be restored, in a good and workmanlike manner, substantially in accordance with the Drawings submitted and made part of this Declaration.

(c) Election Not to Restore After Damage or Destruction; Sale of Condominium Property

Immediately after the occurrence of any damage or destruction to all or any part of the Common Elements, the Board or Managing Agent of the Association shall cause to be prepared such working drawings and specifications as are necessary to obtain thereon bids from two or more reputable and bondable contractor to restore the Common Elements to their condition

immediately before the damage or destruction. If the lowest bid of a reputable and bondable contractor is more than fifty percent (50%) of the reasonable estimate of the cost of so reconstructing all of the improvements on the Land constituting the Common Elements (that is, assuming a complete and total destruction of all such Common Elements) then the Board shall forthwith, upon receipt of the bids, call a meeting of all of the Unit Owners to consider electing not to restore. If the Board fails to proceed in the manner hereinabove prescribed within sixty (60) days after the occurrence of a casualty, any Unit Owner may cause such working drawings and specifications to be prepared, solicit bids, call the meeting of Unit Owners, and conduct the same. If the extent of the damage is as great as aforesaid, if all of the foregoing damage is done within ninety (90) days of the occurrence of the damage, and if, further, Unit Owners by the affirmative vote of those entitled to exercise not less than seventy-five percent (75%) or more of the voting power of the Association elect not to repair and restore such damage at a meeting called to consider such matter, then the repairs and restoration shall not be made, this Condominium shall terminate, and all of the Condominium Property (exclusive of the improvements and betterments within Units belonging to the respective Unit Owners), shall thereafter be subject to an action for sale as upon partition of the suite of any Unit Owner. In the event of any such sale (or a sale of the Condominium Property after such election by agreement of all Unit Owners) the net proceeds of the sale together with the net proceeds of insurance, if any, and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to all Unit Owners in proportion to their respective percentages of interest in the Common Elements. No Unit Owners, however, shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

(E) *Repair and Reconstruction*

(a) If the damage or destruction for which the insurance proceeds are paid to the Insurance Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without a vote of the members, levy a special assessment against all Unit Owners in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. Such assessments shall be in proportion to the Unit Owners' percentages of interests in the Common Elements.

(b) Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be repaired or reconstruction, shall be disbursed as provided for by the Board or Committee as appointed.

(c) the Association shall restore or cause to be restored all damages to or destruction of the Common Elements promptly, and in a good and workmanlike manner, substantially in accordance with the Drawings and as such Common Elements existed immediately before the damage or destruction.

(F) *Minor Repairs*

(a) If the aggregate amount of the estimated costs of repairing any damage to the Common Elements is less than Fifteen Thousand Dollars (\$15,000.00), the instrument (or draft)

by means of which any insurance proceeds are paid shall be endorsed by the Insurance Trustee and delivered to the Association and the damage shall be repaired and the proceeds shall be used as the Board of Managing Agent deems necessary.

(b) The Board (or Managing Agent) shall cause the damaged Common Elements to be restored promptly and in a good and workmanlike manner to the condition in which they existed immediately before the occurrence of the damage and shall use the insurance proceeds to defray the cost of such work. If the cost is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the Common Elements or treated as Common Profits. If the cost of such repairs exceeds the amount of such insurance proceeds, such excess may be provided either by means of a special assessment levied by the Board against all Unit Owners in proportion to each Unit Owner's percentage of interest in the Common Elements, or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of Common Elements, as the Board in its sole discretion may determine.

(G) Waiver of Subrogation

(a) Each Unit Owner as a condition of accepting title and possession, or either one of such, of a Unit and the Association agree, provided such agreement does not invalidate or prejudice any policy of insurance, that in the event the Condominium Property (including the Units therein), any part or parts of the Condominium Property, or the fixtures or personal property of anyone located therein or thereon are damaged or destroyed by fire or other casualty that is covered by insurance of any Unit Owner or the Association and the lessees and sublessees of anyone of them, the rights, if any, of any party against the other, or against the employees, agents, licensees or invitees of any party, with respect to such damage or destruction and with respect to any loss resulting therefrom are hereby waived to the extent of the coverage of said insurance.

20. CONDEMNATION

(A) General

In the event of a Taking as defined in Section 1(X) above, each Unit Owner shall be entitled to notice thereof. Each Unit Owner hereby designates and appoints the Association and any duly authorized agent of the Association, as his exclusive agent to handle, negotiate, settle and conduct all matters, proceedings and litigation incident to such Taking; and the Association shall have the power and authority to do so. Any award made for such Taking shall be payable to the Association if such award amounts to less than Fifteen Thousand Dollars (\$15,000.00) and to the Insurance Trustee if such award amounts to Fifteen Thousand Dollars (\$15,000.00) or more. Unless otherwise provided by law at the time of such Taking, any award made therefore shall be disbursed by the Association or the Insurance Trustee, as the case may be, as hereinafter provided.

(B) Common Elements

(a) If a Taking takes only Common Elements and not a Unit, The Association shall be deemed to have determined to repair, restore and, if reasonable feasible and desirable, replace any Common Elements taken, remaining and/or damaged in accordance with plans prepared at the instance of the Association unless Unit Owners having at least seventy-five percent (75%) of the total vote of the Association shall decide by vote, at a meeting of the Unit Owners of the Association called for that purpose and held within sixty (60) days after the Taking, not to restore, repair and replace. The Board shall make arrangements for any restoration, repair and/or replacement in accordance with the plans prepared by the Association. The Association or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award in the same manner as they are required to disburse insurance proceeds where damage or destruction to the Common Elements is to be repaired or constructed, subject, however, to the determination of any court of competent jurisdiction that a disproportionate distribution be made, and subject, further, to the right hereby reserved to the Board to hire a real estate appraiser to recommend (or recommend against) a disbursement of the award (after payment of all costs incident to the repair, restoration and/or replacement and all expenses of the Insurance Trustee and appraiser) to Unit Owners or any one or more of them in amounts disproportionate to their percentages of undivided interest in the Common Elements, which disproportionate amounts shall correspond with the disproportionate damages sustained by the Unit Owners or any one or more of them. If the appraiser should recommend a disproportionate distribution, he shall state the manner in which he believes the distribution, he shall state the manner in which he believes the distribution should be made. The Board shall use reasonable judgment in deciding whether to hire an appraiser to make such recommendations. If an appraiser is hired, a copy of his recommendation shall be given (in the manner of giving notices to Unit Owner) to all Unit Owners and neither the Insurance Trustee nor the Association, shall make any distribution of the award within twenty (20) days following the delivery of copies of the recommendation to the Unit Owners nor within any period of time thereafter after the recommendation may be subject to or is being arbitrated. Within twenty (20) days after a copy of the recommendation has been mailed (or otherwise delivered) to the Unit Owners, any Unit Owner may give written notice to the Association and the Insurance Trustee that he objects to the recommendation. Any objection shall be submitted to and settled by arbitration in accordance with the Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The proper parties before the Arbitration shall be the Unit Owners who have given notice of their objection to the recommendation and the Association or its authorized agent who shall act on behalf of all non-objecting Unit Owners. If any objection is not submitted to arbitration as herein provided within thirty (30) days after written notice of the objection was given to the Association, then any Unit Owner shall have given notice of objection shall be deemed to have withdrawn his objection and the Insurance Trustee or the Association, as the case may be, shall distribute the award in accordance with the recommendation.

(b) If Unit Owners having at least seventy-five percent (75%) of the total vote of the Association shall decide by vote at a meeting of the Unit Owners of the Association held within sixty (60) days after the Taking, not to restore, repair, and replace the Taking of damage, then such Taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed whereupon, the Condominium shall be terminated in the manner therein prescribed, unless otherwise provided by law.

(C) Units

If the Taking includes one or more Units, or any part or parts thereof, whether or not there is included in the Taking any part of the Common Elements, then the award shall be disbursed and all related matters, including without limitation alteration of the Percentages of undivided interest of the Unit Owners in the Common Elements, shall be handled pursuant to and in accordance with the consent of all Unit Owners expressed in a duly recorded amendment to this Declaration. The Unit Owners of any Unit Taking shall be deemed to be Unit Owners for the purpose of signing such an amendment. In the event that such an amendment shall not be recorded within ninety (90) days after such Taking, the matter of what shall happen to this Condominium, the disposition of the award, and all other issues arising out of the Taking shall be submitted to the Common Pleas Court in the County of Delaware, Ohio, for resolution and determination.

21. REHABILITATION OF BUILDINGS AND OTHER IMPROVEMENTS

The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventy five percent (75%) of the voting power, determine that the Condominium Property is obsolete in whole or in part, and elect to have the same renewed and rehabilitated. The Board shall thereupon proceed with such renewal and rehabilitation and the cost thereof shall be a common expense. Any Unit Owner who does not vote for such renewal and rehabilitation may elect in writing served by him on the president of the Association within five (5) days after receiving notice of such vote, to receive the fair market value of his ownership interest, less the amount of any liens and encumbrances on his Unit as of the date the vote was taken, and the amount of any liens and the date the vote was taken, and the amount of any liens and encumbrances filed or otherwise arising against his Unit during the period from the date of such vote to the date of conveyance in return for a conveyance of his Ownership Interest (subject to such liens and encumbrances) to the President of the Association as trustee for all other Unit Owners. In the event of such election by a Unit Owner to receive the fair market value of his ownership interest, such conveyance and payment of the consideration thereof, which shall be a Common Expense to the Unit Owners who have elected to renew and rehabilitate, shall be made within ten(10) days thereafter; and if such Unit Owner and a majority of the Board cannot agree upon the fair market value of such Unit, such determination shall be made by the majority vote of three appraisers, one of which shall be appointed by such Unit Owner, and the third of which shall be appointed by the first two appraisers.

22. REMOVAL FROM PROVISIONS OF CHAPTER 5311

(A) The Unit Owners by unanimous vote may elect to remove the Condominium Property from the provisions of Chapter 5311. In the event of such election all liens and encumbrances except taxes and assessments not then due and payable on all or any part of the Condominium Property shall be paid released or discharged and a certificate setting forth that such election was made shall be filed with the Recorder of Delaware, County, Ohio, and by him recorded. Such certificate shall be signed by the President of the Association, who shall certify therein under oath that all liens and encumbrances except taxes and assessments not then due and payable upon all or any part of the Common Elements have been paid, released or discharged, and shall also

be signed by the Unit Owners each of whom shall certify therein under oath that all such liens and encumbrances on his Unit or Unit have been paid, released or discharged.

(B) Upon removal of the Condominium Property from Chapter 5311 to the property so removed shall be deemed to be owned in common by the Unit Owners. The undivided interest in the property owned by each Unit Owner shall be the percentage of undivided interest previously owned by such Unit Owner in the Common Elements.

(C) The removal provided for in this paragraph shall in no way bar the subsequent resubmission of the property to the provisions of Chapter 5311 in the manner provided for therein.

23. ADDITION TO CONDOMINIUM PROPERTY

(A) General

Declarant contemplates that it may construct on a part or parts of the Additional Property, additional Storage Unit Buildings that would be of substantially the same design, quality, and construction as the original buildings except for the number of Units in a particular building may not be the same. Declarant also reserves the right to designate Common Elements or create Limited Common Elements on any portion of the Additional Property. The general architectural design, the quality, the appearance and the material used in the construction of the additional buildings and the landscaping of the Common Elements surrounding the same would be substantially the same.

Portions of the Additional Property may be added to the condominium property at different times in phases. There are not limitations fixing the boundaries of these portions. Declarant reserves the right to change the design of structures and buildings to be constructed. Notwithstanding anything to the contrary contained herein, Declarant's development of all or a portion of the Additional Property shall not be mandatory but shall be the option of Declarant as provided herein. With respect to improvements, other than structures, to any portion of the Additional Property to be added to the Condominium Property, Declarant reserves the right to make such improvements as Declarant deems necessary. All or any portion of the Common Elements designated on any portion of the Additional Property may be assigned as Limited Common Elements by Declarant.

There are no limitations on the type of Units which may be created on the Additional Property and no limitations (i) to the location of improvements on the Additional Property; or (ii) to the part or parts of the Additional Property that may be added. Notwithstanding the foregoing, the Declarant contemplates that if Declarant does make such improvements it might, and it hereby reserves the right to make such reasonable changes in any of the foregoing matters as necessary or desirable in the judgment of Declarant to alleviate minor problems of construction, to comply with zoning ordinances, building code or insurance underwriting changes or requirements, to provide for servicing easements, and otherwise to develop reasonably the parts being added in harmony with the developments then existing on the lands which are then a part of this Condominium. The Units and the Common Elements upon that part or parts of the Additional Property which would be added to this Declaration would be subject to the same uses, purposes, covenants and restrictions as the Units and Common Elements herein described, all being subject as one single Condominium, to the provisions of this Declaration. In the event that Declarant constructs

additional Units to any portion of the Additional Property as provided herein, the undivided interest in the Common Elements shall be allocated as set forth in Section 8 hereof. With respect to the voting rights of Unit Owners after the exercise of said option described herein, the rights shall be set forth in Article 1, Section 3 of the Bylaws.

(B) Option to submit part or parts of the Additional Property to Condominiums

(1) The option

Declarant hereby reserves unto itself, its successors and assigns the right and option to submit from time to time any part or parts of the Additional Property then owned by him and all improvements thereon for the construction of additional Units. There are no limitations as to the location of any improvements that may be made on any portion of the Additional Property added to the condominium property. This option may be exercised by Declarant, or by its successors and assigns, executing from time to time an amendment or amendments to this Declaration, which shall be filed for record in the office of the Delaware County Recorder not later than seven (7) years from the date this Declaration is filed for record. The Declarant may, during the six months prior to the time that the option expires, extend the option for an additional seven (7) years with the consent of a Majority of the voting power of the Unit Owners other than Declarant. Each amendment shall expressly submit a legally described part or parts of the Additional Property and the improvements constructed thereon to all of the provisions of this Declaration the Bylaws and Drawings (as amended or supplemented). There shall so be filed with each amendment a set of drawings which show graphically all the particulars of the Additional Property and the improvements thereon and which are certified in accordance with the provisions of Section of 5311.07 of Chapter 5311, as the same may then exist. Each amendment, in addition to declaring that it submits a legally described part or parts of the Additional Property to the provisions of this Declaration and shall provide:

(A) A general description of the building or buildings being added stating the materials of which it is constructed and the number of Units therein.

(B) The Unit designation of each Unit and a statement of its location, approximate area, and the immediate Common Elements to which it has access, and any other data necessary for its proper identification.

(C) A description of the Common Elements and the percentage of interest therein appertaining to each Unit (both the former Units and the ones being added), which percentage shall be determined by Declarant in accordance with Section 5311.04 of the Ohio Revised Code.

(D) A statement that each Unit Owner shall be a member of the Association.

(E) A statement to the effect that this Declaration, except as expressly modified by the amendment to add the Additional Property, is and continues to be in full force and effect and fully applicable to the former Condominium Property and to all property added by the amendment.

(F) For such other particulars as may be required by Section 5311.05 of the Ohio Revised Code.

Each amendment shall, further,

(G) Be executed with the same formalities as this instrument.

(H) Refer to the volume and page in which this instrument and the Drawings be recorded.

(I) Contain an affidavit by Declarant (or other appropriate individual in the case of Declarant's successors and assigns) that a copy of the amendment has been delivered, to all Unit Owners in

a manner by which notices may be given and to all first mortgagees who have bona fide liens of record against any Unit Ownership Interest by personal delivery, certified mail (return receipt requested), or regular mail to a place of business (or residence in case of an individual) of the first mortgage.

(2) Conditions for Exercise of Option

It shall be a condition to Declarant's exercise of the option herein granted:

(A) That the improvements constructed upon each part of the Additional Property being added to this Declaration be the improvements and be constructed in the manner described in the plans submitted.

(B) That the percentages of interests in respect to the Units be in the amount and be allocated among the Units equally.

(C) That the purposes, uses, and restrictions upon the Additional Property and Units therein be the same as those contained in this Declaration.

(3) Consequences of the Amendment

Pursuant to the terms of Section 8 hereof, the allocation of percentage interests among the Units made by Declarant and stated in the amendment shall be conclusive and binding upon all Unit Owners. Upon the exercise, if any, of the option herein granted, this Declaration together with the amendment, shall embrace and submit to Chapter 5311 the Land and all land in the Additional Property declared by Declarant to be added, from time to time, to this Declaration, together with all improvements then constructed thereon.

(4) Non-exercise of Option

Should this option not be exercised within the term specified, it shall in all respects expire and be of no further force or effect. Declarant shall not be obligated to submit any part or parts of the Additional Property to this Declaration, shall not be obligated to construct on the Additional Property improvements of any kind of similar to those described herein, and shall not be obligated to use any part or parts of the Additional Property or any improvements constructed thereon for residential, apartment or similar use.

(C) Consent of Unit Owners to Amendment to Declarant

Declarant, on its own behalf as the owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by a acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves of all of the provisions of this Declaration, including, without limiting the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided herein, and all such Unit Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate these provisions.

(D) Grant of Power-of-Attorney to Declarant

Each Unit Owner and his respective mortgagees by acceptance of a deed conveying an Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, hereby irrevocably appoints Declarant his Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney in the event that Declarant exercises the option and the rights reserved to add, from time to time and at any time within seven (7) years from the filing of this Declaration for record unless extended in accordance with the terms of Section 23(B)(1) above, any part or parts of the Additional Property and the improvements constructed thereon to the Condominium Property as herein provided, to execute, acknowledge and record for and in the name of such Unit Owner an amendment or amendments of this Declaration for such purpose and for an in the name of such respective mortgagees, a consent to such amendment or amendments.

(E) Additional Rights of Declarant to Give Further Assurance

Declarant hereby reserves the right to perform and do such other acts and things as are necessary to carry out the intent and purpose of this paragraph, including without limitation the right to convey to each Unit Owner of a Unit on the land an undivided interest in the Common Elements on the part or parts of the Additional Property being added to this Declaration in the reduced percentage amount declared and determined by Declarant after the additional of each described part or parts of the Additional Property to the Condominium Property and to require each Unit Owner of a Unit on the land (1) to incorporate in each deed conveying his Ownership Interest prior to expiration of the Option period herein provided for an express reference or summary of this paragraph, as Declarant might determine, and (2) to execute and file for record from time to time and express acknowledgment of the existence and terms of this paragraph. Each Unit Owner of a Unit on the land and each mortgagee of such Unit Owner agrees to accept such conveyance, make such reference or summary in his deed, and execute such an acknowledgment. Each Unit Owner agrees, further, that he shall upon demand execute such deed and instruments as necessary or desirable to convey the excess percentage interest owned by him in the Common Elements of the then existing Condominium to the Declarant, and that he shall do and perform such other acts as necessary to carry out the intent and purpose of this paragraph. If Chapter 5311 should be amended to provide a method or procedure for the expansion of or addition of additional lands and improvement to an existing condominium by a Declarant, then Declarant hereby declares such method and/or procedure to be incorporated herein as another, alternative method and procedure by which additional parts of Additional Property may be added by Declarant to this Condominium, provided, however, that such statutory amendment does not reduce the rights and privileges Declarant has or may have by virtue of this Declaration. The provisions of this subparagraph are not to be construed as mandatory, limitations upon, or conditions precedent to the exercise, operation, or effect of the Option reserved and provisions provided for but are contained and reserved herein as supplementary and further assurance to the rights reserved by Declarant.

(F) Liability of Successor Owners

Any successor owner of the Condominium Property or of the Additional Property added to the Condominium Property who is not an affiliate of the Declarant and who is a bona fide purchaser

of the property for value, or a purchaser who acquires the property at a sheriff's sale or by deed in lieu of a foreclosure, is not liable in damages for harm caused by an action or omission of the Declarant or a breach of an obligation by the Declarant.

24. AMENDMENTS

(A) By Declarant

This Declaration may be amended by Declarant, its successors and assigns, and by the Unit Owners (if not Declarant) of the fee simple title to the Additional Property.

(1) Adjustments to Units

Anything herein to the contrary notwithstanding, Declarant reserves the right to change the interior design and arrangements of all Units, to subdivide a single Unit into two or more Units, to combine (in whole or in part) two or more Units into a single Unit, and to alter the boundaries between the Units, so long as Declarant owns the Units so altered, subdivided, or combined, and so long as the exterior walls of a Building are not altered. If Declarant alters the boundaries between Units, combines Units, or subdivides a Unit, Declarant shall prepare, and file with the Recorder of Delaware County an appropriate amendment to this Declaration and the Drawings. The amendment shall reflect the change in percentage interest of such adjusted Units in the Common Elements, but the aggregate off the percentage interest of the adjusted Unit(s) in the Common Elements shall remain the same. For example, if 300 square feet of floor area in a Unit having a three percent (3%) interest in the Common Elements were eliminated from such Unit and added to an adjoining Unit having before such addition a two percent (2%) interest in the Common Elements, the Unit losing 300 square feet of floor area may have its percentage of interest in the Common Elements reduced 0.3% to 2.7%. The Unit acquiring such 300 square feet of additional floor space would have its percentage of interest in the Common Elements increased 0.3% to 2.3%, but the aggregate percentage of interests of the two affected Units would remain the same, namely 5% ($3.0\% + 2.0\% = 5\%$; and $2.7\% + 2.3\% = 5\%$). By way of further example, if two adjoining Units, each having a 3% interest in the Common Elements (for an aggregate percentage interest of 6% are joined into one Unit, there will be one less Unit in the Condominium, but the one Unit will have a 6% interest in the Common Elements.

The amendment of this Declaration reflecting such authorized alteration or subdivision of Units by Declarant need be signed and acknowledged only by Declarant, and need not be approved by the Association, Unit Owners, or lien or (other than first mortgagees) whether or not elsewhere required for an amendment. The amendment shall include an amendment to the Drawings which shall be duly verified as required by Chapter 5311, but likewise, shall require no approval by anyone except Declarant who shall endorse its approval on the amendment to the Drawings. The amendments shall be duly filed for record by Declarant.

Declarant, on its own behalf as the owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves of all of the provisions of this part, including, without limitation the generality of the foregoing, the amendment of this Declaration by Declarant in the manner provided herein, and all such Unit

Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate these provisions.

Each Unit Owner and his respective mortgagees by acceptance of a deed conveying an Ownership Interest, as the case may be, hereby irrevocable appoints the Declarant his Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney in the event that Declarant exercises the right reserved in this part to alter or subdivide Units, to execute, acknowledge and record for and in the name of such Unit Owner an amendment or amendments of this Declaration for such purpose and for and in the name of such respective mortgagees a consent to such amendment or amendments.

Declarant hereby reserves the right to perform and do such other acts and things as are necessary to carry out the intent and purposes of this part. The provisions of this paragraph and of the two preceding paragraphs of this part (ii) are not to be construed as mandatory, limitations upon, or conditions precedent to, the exercise, operations or effect of the rights reserved and provisions provided for in the first two paragraphs of this part (ii), but are contained and reserved herein as supplementary and further assurance to the rights reserved by Declarant under said first two paragraphs.

Anything in the forgoing provisions of this part (ii) to the contrary notwithstanding, Declarant shall not amend this Declaration as provided in this part (ii) without the consent in writing, endorsed upon or attached to the amendment, of the holder of any recorded first mortgage upon the Units being altered, combined or subdivided by the amendments, and such holder may at its discretion, refuse to sign such consent. If any such mortgagee does refuse to sign such consent, such mortgagee agrees to accept a payment, without charging a penalty or prepayment fee, of the indebtedness (and accrued interest) secured by the mortgage and to deliver to Declarant a recordable discharge of the mortgage upon such payment.

(B) By Others

(1) In addition to the manner of making amendments described or referred to in subsection (a) of this Section, this Declaration, the Drawings, and the Bylaws may be amended upon the filing for record with the Delaware County Recorder of an instrument in writing setting forth specifically the item and items to be amended and any new matter to be added, which instrument shall have been duly executed by Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Such amendment must be executed with the same formalities as this instrument, must refer to the volume and page in which this instrument and the Drawings are recorded, and must contain an affidavit by the President of the Association that a copy of the amendment has been personally delivered at an office of or has been mailed by certified mail to all mortgagees having bona fide liens of record against any Unit Ownership Interest. Notwithstanding anything to the contrary contained herein, the Board may amend the Declaration without a vote of the Unit Owners in any manner for any of the purposes set forth in Ohio Revised Code Section 5311.05(E).

25. REMEDIES FOR BREACH OF COVENANTS AND RULES

(A) *Abatement and Enjoinment*

The violation of any restriction, condition or Rule adopted by the Association or the breach of any restriction, covenant or provision contained in this Declaration or in the Bylaws shall give the Association the right, in addition to the rights and those provided by law, (i) to enter upon the land or Unit or portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the Owner of the Unit where the violation or breach exists (or if the violation or breach is in respect to Limited Common Elements the Owner of the Unit to which the Limited Common Elements and Facility is appurtenant), any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration, the Bylaws, or the Rules and the Association, and its agents, shall not be thereby deemed guilty in any manner of trespass; (ii) to enjoin, abate or remedy by appropriate legal or equitable proceedings that continuance of any breach; and/or (iii) to commence and prosecute an action to recover any damages which may have been sustained by the Association or any Unit Owner or Unit Owners.

(B) *Involuntary Sale*

If any Unit Owner (either by his own conduct or by the conduct of any tenant of the Unit) shall violate any covenants or provision contained in this Declaration or the Rules and such violation shall continue for one hundred eighty (180) days after notice in writing from the Association or shall occur repeatedly during any one hundred eighty (180) day period after written notice or request to cure such violation from the Association, provided, however, that if the violation constitutes a nuisance or constitutes a threat to the health and safety of other Unit Owners or to a part or parts of the Condominium Property, then if the violation continues for thirty (30) days after notice in writing from the Association or occurs repeatedly during any thirty (30) day period after written notice or request to cure from the Association, the Association shall have the right to give to the defaulting Unit Owner a notice in writing that the rights of such Unit Owner and any tenants of such Unit to continue as a Unit Owner any tenant and to continue to occupy, use or control his Unit shall terminate as of the tenth day following the giving of such notice, and all rights and privileges of such Unit Owner and any tenants of his Unit shall terminate on such tenth day. At any time within ninety (90) days after such tenth (10th) day, an action may be filed by the Association against such Unit Owner or any tenant for a decree of mandatory injunction against said Unit Owner or Occupant, or for a decree declaring the termination of the right of such Unit Owner or any tenant to occupy, use or control the Unit owned or occupied by him and ordering that all the right, title and interest of the Unit Owner or any tenant in his Ownership Interest or interest therein shall be sold (subject to any liens and encumbrances thereon) at a judicial sale upon such notice and terms as the court shall establish, except that the court may be requested to enjoin and restrain such Unit Owner or any tenant from reacquiring his Ownership Interest at such judicial sale, and the court shall grant all such relief requested by the Association. The Association, however, may acquire said Ownership Interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, receiver's fees and all other expenses of the proceedings, and all such items shall be taxed against such Unit Owner and any tenant in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid Assessments owing to the Association and all mortgages and other liens and

encumbrances required to be discharged, shall be paid to the Unit Owner. Upon the confirmation of such sale, the purchaser, thereafter shall thereupon be entitled to a conveyance of the Ownership Interest or interest therein and to immediate possession of the Unit so conveyed, and may apply to the court for a writ for the purpose of acquiring such conveyance and possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in such Ownership Interest or interest therein subject to this Declaration.

The rights of the Association hereunder shall not be deemed or interpreted to prevent the holder of any first mortgage upon the affected Unit from accelerating the time or times of payment of the indebtedness secured by such mortgage, and if such holder does accelerate payment of the secured indebtedness, such holder shall be entitled to payment of the full indebtedness from the proceeds of sale in accordance with the priority of the mortgage lien.

The provisions of this subsection (b) shall, further, not be exclusive of the rights and remedies of the Association or of any Unit Owner or any tenant in the event of any violation or breach of any clause of this Declaration or the Rules; and the time periods herein set forth shall not be applied to or be interpreted to restrict the time within which the Association or any Unit Owner may undertake and proceed with any other right, remedy or action it may have or otherwise act in respect to any violation or breach of any clause of this Declaration or Rules.

26. SALES, LEASING OR OTHER ALIENATION

(A) Sale

Any Unit Owner, other than the Declarant, who wishes to sell his Ownership Interest or any interest therein to any person who is not a spouse, parent, child or grandchild of the Unit Owner, shall give to the Secretary of the Association no less than thirty (30) days prior to the proposed sale, written notice of the proposed sale, together with the name and address of the proposed purchaser, and a true, executed copy of the proposed purchase agreement, which purchase agreement shall be bona fide, shall contain all of the terms and conditions of such sale, and shall expressly be subject to the option granted herein to the Association, in the event the proposed purchase price is less than the amount the Unit Owner paid for the Ownership Interest. The Association shall have the first right and option to purchase such Ownership Interest upon the same terms as those contained in the purchase agreement so delivered to it, which option shall be exercisable for a period of fifteen (15) days following the date of receipt of such notice, agreement, names and addresses. If said option is not exercised by the Association within the aforesaid option period, or if the option is waived or released, the Unit Owner may, at the expiration of said period, sell such Ownership Interest to the proposed purchaser named in such notice upon (and only upon) the terms specified herein.

(B) Involuntary Sale

In the event any Ownership Interest or interest therein is sold at a judicial or execution sale (other than a mortgage foreclosure sale), the person acquiring title through such sale shall, before taking possession of the Ownership Interest so sold, give thirty (30) days written notice to the Board of his intention so to do, whereupon the Association shall have the right and option to purchase such Ownership Interest or interest therein at the same price for which it was sold at said sale. If said option is not exercised by the Association within said fifteen (15) days after receipt of such note, it shall thereupon expire and said purchaser may thereafter take possession

of said Unit. The Association may exercise its option by giving notice to said purchaser within fifteen (15) days following the date of receipt of such notice. Additionally, no Unit Owner shall, without the approval of the Board, grant, sell (either directly or through the grant of an option), gift, transfer, lease, sublease or otherwise permit the use of such Unit Owner's Unit to any prior Unit Owner whose Ownership Interest was sold at a judicial sale, at an execution sale, as a result of a foreclosure, or otherwise as a result of an involuntary sale of such prior Unit Owner's Ownership Interest.

(C) Defaults in Payments

In the event any Unit Owner shall default in the payment of any moneys required to be paid under the provisions of any mortgage or trust deed against his Ownership Interest, or any other obligation which may result in a lien on his Ownership Interest, the Association shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefor against such Ownership Interest.

(D) Release, Waiver and Exceptions to Option

(1) Upon the consent of a majority of the then existing members of the Board, any of the options contained in this Section 26 may be released or waived and the Ownership Interest or interest therein which is subject to an option set forth in this Section 26 may be sold, conveyed, leased, free and clear of the provisions of this Section 26.

(2) None of the options contained in this Section 26 shall be applicable to the sale of any Ownership Interest in a first mortgage foreclosure sale, the conveyance of a Ownership Interest to the holder of a first mortgage upon a Ownership Interest by a deed given in lieu of foreclosure, and a conveyance of a Ownership Interest by a person or entity which was a first mortgagee and which acquired title to the Ownership Interest in a foreclosure of the mortgage thereon or by a deed in lieu thereof.

(3) A certificate signed by the Secretary of the Association stating that the provisions of this Section 26 as hereinabove set forth have been met by a Unit Owner, or duly waived by the Board, or that the rights of the Association hereunder have terminated, shall be conclusive upon the Association and all Unit Owners in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Unit Owner who has in fact complied with the provisions of this Section 26 or in respect to whom the provisions of this Section 26 have been waived or released, upon request and payment of a reasonable fee, not to exceed Ten Dollars (\$10.00).

(E) Condition Precedent to Exercise to Option; Consent of Voting Members

The Association shall not exercise any option hereinabove set forth to purchase any Ownership Interest or interest therein without the prior written consent of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of the Association, and whose Ownership Interest is not the subject matter of such option. The Association may bid to purchase at any sale of an Ownership Interest or interest therein which is held pursuant to an order or direction of a court upon the prior written consent of the aforesaid voting Unit Owners, which said consent shall set forth a maximum price which the Association is authorized to bid and pay for said Ownership Interest or interest therein. The aforesaid option shall be exercised by

the Association solely for the use and benefit of the Unit Owners consenting thereto. It shall be a further condition to the exercise of any option granted to the Association in this Section 26 that the Unit Owners so consenting in writing to purchase (or bid) the Ownership Interest deposit with the Treasurer of the Association before the expiration of the option period either (i) an amount of cash equal to the purchase price, or, in case the purchase price is to be determined later, a reasonable estimate of such purchase price is to be determined later, a reasonable estimate of such purchase price, or (ii) a commitment (a combination of cash and commitment) from a financial institution such as a bank or savings and loan association that such institution shall provide an amount of money to one or more of the consenting Unit Owners equal to the purchase price (or the reasonable estimate thereof) for the purchase of such Ownership Interest upon the transfer of title thereof to the President or Secretary of the Association as trustee for the consenting Unit Owners. The commitment may provide that the Ownership Interest be mortgaged to secure a loan to such Unit Owners. All moneys received by the Treasurer under this Section 26 shall be deposited by him in a special account with a bank or savings and loan association which shall be opened, held and used by the Association solely to make the purchase upon its exercise for the option granted to it herein provided.

(F) Procedure for Consummation of Option

(1) **Exercise of Option.** Any option exercisable by the Association hereunder may be exercised within the respective option period by delivery to the person or persons designated above a written notice of such exercise signed by the President, Vice President or Secretary of the Association.

(2) Financing of Purchase Under Option.

(a) Acquisition of any Ownership Interest under the provisions of this Section 26 shall be made from the moneys or commitment deposited with the Treasurer as provided for in subsection E of this Section 26. If said deposit is insufficient, the Association shall levy a special assessment against each consenting Unit Owner in the proportion which his percentage of interest in the Common Elements and Facilities bears to the percentage of interest in the Common Elements and Facilities of all consenting Unit Owners, which assessment shall be payable immediately upon notification thereof to such consenting Unit Owners. If the assessment is not paid, it shall become a lien and be enforceable as a lien for Common Expenses.

(b) Neither the Board, the Association nor any officer of the Association (in his capacity of such officer) shall borrow money on behalf of the Association to finance the acquisition of any Ownership Interest (or interest therein) authorized by this Section 26 nor shall they or any of them become liable (by reason of his or their holding title in trust for the consenting Unit Owners and granting a mortgage as such legal title holder) under any evidence of indebtedness or security instrument therefore related to any such acquisition; but the President or Secretary (as holder of legal title for the consenting Unit Owners) shall upon demand of any consenting Unit Owner or Owners grant one first mortgage upon the Ownership Interest being acquired to secure a loan made to one or more of the consenting Unit Owners to purchase the Ownership Interest. An officer may become liable as a consenting Unit Owner.

(3) Consummation of Purchase

Subject to the provisions of this Section 26(F), any purchase effected pursuant to the provisions of this Section 26 shall be made by the payment of the purchase price by the Treasurer of the Association from the special account established on behalf of the consenting Unit Owners, in return for a conveyance of the Ownership Interest or interest therein to the President or Secretary of the Association as trustee for all consenting Unit Owners. Within twenty (20) days after the exercise of the option by the Association as herein provided, the Treasurer of the Association shall deposit the purchase price with a title insurance company, designated by the Board, qualified to do business in the State of Ohio and having an office in Ohio, with instructions to pay over said purchase price when the title company is prepared to issue to the grantee named in the deed (who shall be the President or Secretary of the Association, as Trustee, as aforesaid) its standard policy or title insurance insuring said grantee is vested with fee simple title to the Unit free and clear of all liens, encumbrances and defects, except for --

- (a) taxes and assessments not then due and payable,
- (b) all matters contained in this Declaration,
- (c) all liens and encumbrances to which the purchase is expressly to be subject, and
- (d) all restrictions, easements, covenants and conditions affecting the Ownership Interest, or interest therein, which were duly made under authority of this Declaration, or to which the Condominium Property was subject at the date this Declaration was filed for record.

Within the same twenty (20) day period, the persons obligated to convey the Unit, or interest therein, subject to the option, shall deposit with the title insurance company designated by the Board, a deed of general warranty (except a grantor under subsection (B) and (C) of this Section 26 may deposit a limited warranty deed or sheriff's deed) conveying good fee simple title to the Ownership Interest or interest therein to the President or Secretary of the Association, as trustee, free and clear of all liens, encumbrances and defects, except for those matters referred to above. Anything herein to the contrary notwithstanding, the Treasurer shall not be obligated to deposit the purchase price with the title company until the deed aforesaid is deposited with the title company and the title company is prepared to issue its title policy to the grantee named in the deed insuring said grantee he is vested with title as aforesaid. The grantor shall pay for taxes and assessments, Common Expense assessments, and utilities prorated to the date of transfer of title, the cost of the title search, the cost of removing all nonexcepted defects, liens and encumbrances to title, the premium for the policy of title insurance, any applicable transfer fees, and one-half of the escrow fee. The Treasurer (for the consenting Unit Owners) shall pay for one-half of the escrow fee, the fee for filing for record the deed of conveyance, and any prorations due to the grantor. Anything herein to the contrary notwithstanding, where the Association exercises its option to purchase granted under subsection (B) of this Section 26, the purchaser who is obligated to convey title to the President or Secretary of the Association shall not be obligated to pay any real estate taxes or assessments, or any Assessments accruing from the date he acquired title to the date he becomes obligated to convey title to the President or Secretary of the Association; nor shall he be obligated to pay any escrow fees, title searches, premiums for title insurance, or conveyance fees charged in connection with his transfer of title to the President or Secretary of the Association, it being the intention of this sentence that the purchaser at a judicial or execution sale who is obligated to convey the title he acquired to the President or Secretary of

the Association shall be made substantially whole, except for any interest or financing charges paid by him, his legal fees, investigations and other incidental expenses.

A purchase made pursuant to the exercise of the option under subsection (A) of this Section 26 shall be consummated in accordance with the provisions of the Agreement which the Unit Owner first proposed to enter into. A purchase made pursuant to a bid at a judicial or execution sale shall be made in accordance with the conditions of the order of sale and other applicable law.

(4) **Title to Acquired Interests.** Ownership Interests or interests therein “acquired” pursuant to the terms of this Section 26 shall be held of record in the name of the President or Secretary of the Association as trustee for all consenting Unit Owners. Such holding shall be for the benefit of all the Unit Owners consenting to and participating in such acquisition. Said Ownership Interests or interests therein shall be sold or leased upon authorization of a majority of the Board for the benefit of such consenting Unit Owners. All net proceeds of any such sale or leasing shall be deposited in a special account and shall thereafter be promptly disbursed in the appropriate amounts to the consenting Unit Owners.

27. RESERVATION OF DEVELOPMENT RIGHTS AND PLAN OF DEVELOPMENT

Declarant hereby expressly reserves the following Development Rights, along with the right to exercise such rights without the consent of any Mortgagee or any Owner:

- a. To add additional property, as defined in ORC § 5311.01(B), to the Condominium Property created hereby, as more fully set out in Section 23;
- b. To create easements, Units, Common Elements or Limited Common Elements within any portion of the Condominium Property created hereby;
- c. To subdivide Units, combine Units, convert Units into Common Elements or convert Common Elements into Units;
- d. Subject to applicable law, to withdraw real estate from the Condominium Property created hereby;
- e. To make, by merger agreement or other instrument, this Condominium Property a part of a larger condominium;
- f. To amend this Declaration to comply with applicable law or to correct any error or inconsistency in this Declaration provided that such amendment does not adversely affect the rights of any Unit Owner, which amendment rights as set forth in this subsection f shall be exercised, if at all, subject to applicable law.
- g. To amend this Declaration to comply with the rules or guidelines, in effect from time to time of any governmental or quasi governmental entity or federal corporation guarantying or insuring mortgage loans or governing transactions involving mortgage instruments, which amendment rights as set forth in this subsection g shall be exercised, if at all, subject to applicable law.
- h. To enter the Units, upon twenty-four (24) hours’ notice to the Owner.

In the event the Condominium Property created hereby is expanded to include a greater number of Units, each Owner of such additional Units shall become a Member of the Association and shall be entitled to exercise the same voting rights as Owners in the

Condominium Property created hereby and as provided in the Bylaws. Upon the creation of such additional Units within the Condominium Property created hereby, the respective interest in and to the Common Elements appurtenant to each Unit in the existing Condominium Property shall be reduced in proportion to the number of Units added to the Condominium Property. Subsequent to the addition of any new Units, the interest in and to the Common Elements appurtenant to each Unit in the Condominium Property shall be determined in the same manner as set forth in Section 8 hereof.

28. EXEMPTION OF DECLARANT FROM RESTRICIONS AND RESERVATIONS AND RESERVATION OF SPECIAL DECLARANT RIGHTS

Notwithstanding anything contained in this Declaration to the contrary, none of the restrictions contained in this Declaration shall be construed or deemed to limit or prohibit any act of Declarant, its employees, agents, and subcontractors, or parties designated by it in connection with any construction, completion, sale or leasing of any portion of the Condominium Property. In addition to the foregoing, Declarant expressly reserves the following Special Declarant Rights, and the right to transfer such rights at the Declarant's discretion:

- a. The right to construct any improvements as provided herein;
- b. The right to exercise any Development Right as more fully set forth in Section 27 hereof;
- c. The right to maintain sales offices, management offices, signs advertising the Condominium Property and model Units within the Condominium Property until the last Unit in the Condominium Property is sold to an owner other than Declarant;
- d. The right to use any easements through the Common Elements for the purpose of making improvements within the Condominium Property or within any other portion of the Land;
- e. The right to appoint or remove any officer of the Association or any Board member during any period of Declarant control as provided in Section 14(A) hereof;
- f. The Declarant hereby reserves the specific right for itself to divide each Unit which it has not conveyed to an Owner into two or more Units and may transfer, sell or assign any such new Units without the consent or approval of all other Unit Owners or the Association, provided that such new Units are fully described and delineated in an amendment, duly filed, to this Declaration, which said amendment shall specify the division of any such Unit and shall contain any other requirements of the Act and shall be executed by the Declarant and upon recordation of such amendment, it shall become part of this Declaration. The new Units shall expressly be subject to all terms and conditions of this Declaration as any other Unit. The right to further subdivide any Unit shall remain with the Declarant and shall be extinguished upon the conveyance by the Declarant of any Unit to an Owner.

29. WARRANTIES FURNISHED BY DECLARANT

A description of the warranties for structural elements and mechanical or other systems is as follows:

(A) Declarant furnishes a one-year warranty covering the full cost of labor and materials for any repair or replacement of roof and structural components and mechanical, electrical, plumbing, and common service elements serving the Condominium Property (other than concrete and drywall) occasioned or necessitated by a defect in material or workmanship. Said one-year warranty shall commence on the date the deed, land contract, or other evidence of legal or equitable ownership is filed for record following the sale of the first Unit in the development to a purchaser in good faith for value.

(B) Declarant furnishes a one-year warranty covering the full cost of labor and materials for any repair or replacement of structural, mechanical, and other elements (other than concrete and drywall) pertaining to each Unit, occasioned or necessitated by a defect in material or workmanship. Said one-year warranty shall commence on the date the deed, land contract, or other evidence of legal or equitable ownership is filed for record following the first sale of a Unit to a purchaser in good faith for value.

(C) Notwithstanding Section 29(B) above, in the case of equipment or appliances, if any, installed and furnished as part of the Unit by the Declarant, the valid assignment by the Declarant of all the Developer's right, title, and interest in and to any and all express and implied warranties of the manufacturer, satisfies the Declarant's obligation with respect to such equipment or appliances.

(D) Declarant shall assign all warranties made to the Declarant that exceed the time periods for the warranties disclosed in Sections 29(A) and 29(B) above, with respect to any part of the Units or Common Elements.

(E) The warranties referred to in this Section 29 are a full and complete statement of all warranties, express and implied, given by the Declarant. By acceptance of a deed for a Unit, each Unit Owner acknowledges that he has inspected the Unit described therein and is buying it in its present condition without further warranty or representation, express or implied, by the Declarant or by an agent or broker of the Declarant.

(F) DISCLAIMER OF WARRANTIES -- OTHER THAN THE EXPRESS WARRANTIES SET FORTH ABOVE, DECLARANT HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

(G) LIMITATION OF LIABILITY -- DECLARANT SHALL NOT BE RESPONSIBLE FOR INJURY TO PERSONS OR DAMAGE TO PROPERTY ARISING IN ANY MANNER. DECLARANT SHALL NOT BE RESPONSIBLE FOR ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY SORT.

30. MISCELLANEOUS PROVISIONS

(A) *Declarant's Rights Pending Election of Board; Assessments During Start-up Period*

Until the later of, (i) five (5) years have elapsed from the time this Declaration and from the time any amendment hereof has been filed for record with the Delaware County Recorder, subject to extension or until (ii) such time as Declarant shall have consummated the sale of the sufficient number of Ownership Interests to entitle the Unit Owners, other than Declarant, to exercise one hundred percent (100%) of the voting power in the Association, and until a meeting of the Association at which a Board is elected has been held, Declarant may exercise the powers, rights, duties and functions of the Association and the Board, including, without limitation, the power to determine the amount of, and to levy special assessments for Common Expenses, and the right to enter into, on behalf of and in the name of the Association.

During the Start-Up Period each Unit Owner shall pay _____ cents (_____) per square foot per month as Association fees and the Unit Owner's real estate taxes and assessments and other costs and expenses directly attributable to his Ownership Interest. At the end of the Start-Up Period, the Association shall have paid all bills then due and payable and shall have accumulated on behalf of the Association a pro rata amount of cash needed to pay the next premiums due on all required insurance and other cash or working capital. Following the Start-Up Period all Unit Owners shall pay all Assessments made against their Units, in accordance with their percentages of interest in the Common Elements, for the "Estimated Unit Owners' Cash Requirements" as then determined by Declarant or the Board, and all other payments herein required by them to be made.

(B) *Rights and Obligations of Declarant Pending Sale of Each Unit*

So long as said Declarant owns one or more Units, Declarant shall be subject to the provisions of this Declaration; except as set forth in Section 30(c) below and except that Declarant may sell, lease, convey, license, use and otherwise contract in respect to Units owned by Declarant without approval of the Board. Declarant covenants to take no action which would adversely affect the rights of the Association with respect to assurances against latent defects in the property or other rights assigned to the Association by reason of the establishment of the Condominium. Notwithstanding the foregoing, Declarant shall not rent any Units for transient purposes.

(C) *Exemption of Unsold Units.* Notwithstanding anything in this Declaration to the contrary, until such time that the Board is elected by the Unit Owners other than Declarant, Declarant shall have the option (but not the obligation) to direct that no assessments for Common Expenses shall be levied upon, or payable with respect to, any Unit which is owned by or leased to the Declarant, or any affiliate of Declarant or the successors and assigns of the Declarant, until such Unit has been sold to a third party. However, this reduced Common Expense assessment shall not be permitted unless the Declarant assumes the obligation to pay to the Association any deficiency in monies due to the Declarant having paid a reduced Common Expense assessment and necessary for the Association to be able to timely pay all Common Expenses.

(D) Non-Liability of Declarant

Declarant shall not be held liable, (except for sole gross negligence) for any claim whatsoever arising out of or by any actions performed pursuant to this Declaration or in Declarant's (or its representative's) capacity as developer, contractor, owner, manager or seller of the Condominium Property whether or not such claims (i) shall be asserted by a Unit Owner, the Association, or by any person or entity claiming through any of them or (ii) shall be on account of injury to person or damage to or loss of property wherever located and however caused, or (iii) shall arise ex contractual or (except in the case of gross negligence) ex dilecto. Without limiting the generality of the foregoing, the foregoing enumeration includes all claims for, or arising by reason of, the Condominium Property or any part thereof being or becoming out of repair or containing any patent or latent defects, or by reason of any neglect of any Unit, the Association, and their respective agents, employees, guest, and invitees, or by reason of any neighboring property or personal property located on or about the Condominium Property, or by reason of the failure or malfunction or disrepair of any utility services (heat, electricity, gas, sewage, etc.)

(E) Notices of Mortgages

Any Unit Owner who mortgages his Ownership Interest or interest therein, shall notify the Association, in such manner as the Association may direct, of the names and addresses of his mortgagees and of the amount being secured thereby and thereafter shall notify the Association of the payment, cancellation or other alteration in the status of such mortgages. The Association shall maintain such information in a book entitled (Mortgages of Units).

(F) Purchasers Under Land Installment Contract Considered Owners. The sale of a Unit on a land installment contract basis whereby legal title is to remain with the seller until such time as the purchaser complies with all the terms of the land installment contract, conveys to the purchaser, to the extent of payments made under such land installment contract, an equitable interest in the Unit sold together with an appurtenant undivided equitable interest in the Common Elements. Even though the purchaser does not obtain legal title to the Unit and the Common Elements, the purchaser, at the time the land installment contract is recorded or at the time the purchaser takes possession of the Unit, whichever occurs earlier, shall be entitled to all the rights and privileges set forth for a Unit Owner of a Unit in this Declaration, the Bylaws and the condominium rules and regulations and shall be subject to all the obligations and penalties imposed on a Unit Owner of a Unit in this Declaration, the Bylaws and the condominium rules and regulations, including, but not limited to, the right to vote in the Association as a Unit Owner of the Unit being sold under the land installment contract and the obligation to pay the periodic assessments and be responsible for the Common Expenses attributable to the Unit being sold under the land installment contract. The person holding legal title to a Unit which is subject to a land installment contract shall not be entitled to such rights and privileges as a Unit Owner and shall in no way be responsible for such obligations and penalties as a Unit Owner after the land installment contract is recorded or after the purchaser takes possession of the Unit, whichever occurs earlier; it being the intention hereof to treat the purchaser of a Unit under a land installment contract, his heirs, successors and assigns, as the Unit Owner for purposes of this Declaration, the Bylaws and the condominium rules and regulations. At such time as the land installment contract is terminated, the legal title holder of the Unit shall be treated as the Unit Owner for purposes of this Declaration, the Bylaws and the rules and regulations of the Association.

(G) Copies of Notices to Mortgage Lender

Upon written request to the Board, the holder of any duly recorded mortgage on any Ownership Interest or interest therein shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner or Owners whose Ownership Interest or interest therein is subject to such mortgage, of any Assessments made against the Unit, and of any other written communications give by the Association to the Unit Owners, even though such written communication may not reach the status of a "Notice."

(H) Covenants Running with Land

Each grantee, lessee, or contractee of any interest whatsoever in any part of the Condominium Property, by the acceptance of a deed of conveyance, lease, or contract in respect to any interest in any part of the Condominium Property accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the Land, and shall bind any person having at any time any interest or estate in said Condominium Property, and shall insure to the benefit of such person in like manner as though the provision of this Declaration where recited and stipulated at length in each and every deed, lease and contract.

(I) Termination

Upon the removal of the Condominium Property from the provisions of Chapter 5311, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the Land or any Ownership Interest or interest therein shall terminate and be of no further force or effect.

(J) Waiver

No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

(K) Severability

The invalidity of any covenant, restriction, condition, limitation or any other provisions of this Declaration or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration. The cy pres rule shall be applied in all cases where any covenant, restriction, condition, or other provisions of this Declaration or any part thereof is found to be illegal or impossible of being given literal effect.

(L) Time Limits

In any of the privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common laws rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the

death of the survivor or the now living descendants of George W. Bush, former President of the United States.

(M) Service of Notices on Association

Except where otherwise herein expressly provided, notices required to be given to the Board or the Association shall be in writing and shall be delivered to any two (2) members of the Board or to the President of the Association, either personally or by certified or registered mail, return receipt requested, with postage prepaid, addressed to such members or officer of his Unit. Copies of all such notices shall be sent to Todd Ernsberger, Onda, LaBuhn, Rankin & Boggs Co., LPA 35 North Fourth Street, Suite 100, Columbus, Ohio 43215.

(N) Service of Notices on Unit Owners

Unless otherwise expressly provided for herein, any notices required or desired to be given to the Unit Owners or to any one or more of them shall be in writing and shall be deemed to have been effectively given if it shall have been (i) delivered personally to the Unit Owner or Unit Owners (if there be more than one person owning a single Unit, a notice given to any one of such several persons shall be deemed to have been given personally to all of the persons owning an interest in such Unit), (ii) placed upon or beneath the door of the Unit or otherwise left at the Unit (it shall then be deemed to have been given to all persons owning an interest in such Unit), or (iii) sent by certified or registered mail, return receipt requested, with postage prepaid, addressed to the Unit Owner at the mailing address of his Unit.

(O) Duration

If any Ohio law should be deemed to limit the period during which covenants restricting lands to certain uses may run, it shall be the duty of the Board to cause the covenants contained herein, as amended from time to time, to be extended when extended when necessary by filing in the Recorder's Office of Delaware County a document bearing the signatures of a majority (or such lesser or greater number as may be permitted or required by law) of the then Unit Owners reaffirming and newly adopting this Declaration in order that the same may continue to bind and run with the land. Such adoption by a majority (or such lesser or greater number as may be permitted or required by law) shall be binding on all, and each Unit Owner of any Unit, by acceptance of a deed therefor, is deemed to agree that this Declaration may be extended as provided in this subparagraph. This subparagraph is precautionary only. If the effect of Chapter 5311 is to abrogate any law limited the period during which covenants restricting lands to certain uses may run, then such document need not be filed. This subparagraph shall not be deemed to limit in any respect the covenants, restrictions and declarations herein contained, it being the intention of Declarant and all Unit Owners that all of the declarations, covenants and restrictions herein contained shall continue until this Declaration and submission is terminated in the manner herein provided.

(P) Headings

The heading to each paragraph and each subparagraph hereof is inserted only as a matter of convenience and reference in no way defines, limits or describes the scope or intent of this Declaration nor in any way affects this Declaration.

(Q) *Interpretation*

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the establishment and operation of a first-class commercial condominium development.

**[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK]
[SIGNATURES TO FOLLOW]**

The Declarant has executed this Declaration this _____ Day of _____, 2018.

By: _____

STATE OF OHIO)
) SS:
COUNTY OF DELAWARE)

The forgoing instrument was acknowledged before me this _____ Day of _____ 2018,
by _____, the Manager of _____, an Ohio Limited Liability Company.

NOTARY PUBLIC

Prepared by:

CONSENT OF MORTGAGEE

The undersigned, the Mortgagee of the above-described Condominium Property, hereby consents to the submission of the Condominium Property to the provisions of Chapter 5311 of the Ohio Revised Code as a Condominium Property, known as HORSE POWER FARMS OF POWELL pursuant to the foregoing Declaration of Condominium Ownership, preserving however, all of its rights as mortgagee thereof.

MORTGAGEE

By: _____

Its: _____

STATE OF _____)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by _____, the _____ of _____, an Ohio _____, on behalf of the _____.

EXHIBIT A

ADDITIONAL PROPERTY

Being part of Farm Lot 13 & 14, Section 2, Township 3, Range 19, U.S. Military Lands, Liberty Township, Delaware County, Ohio, and being part of a 10.06 acre tract conveyed to the River of Life Assembly of God, in Vol. 519 Page 391.

Containing 9.575 acres of land, more or less. From the Township of Liberty, Delaware County, Ohio to the City of Powell, Ohio.

EXHIBIT B

LEGAL DESCRIPTION

EXHIBIT C
DRAWINGS

EXHIBIT D

BYLAWS