

21807

INDIAN CREEK GARDEN CONDOMINIUMS

DECLARATION OF CONDOMINIUM OWNERSHIP

I hereby certify that copies of the within Declaration, together with drawings and By-Laws attached as Exhibits thereto, have been filed in the office of the Auditor, Montgomery County, Ohio.

Dated:

COUNTY AUDITOR

By \_\_\_\_\_

This instrument prepared by:  
Allbery & Roberts, Attorneys at Law  
1200 American Building  
Dayton, Ohio 45402

JOE D. PEDG  
RECORDER

DEC 29 3 44 PM '76

MONTGOMERY CO., OHIO  
RECORDED

#9495

DEC 29 1976

FOR PLAT MAP SEE  
PLAT BOOK 101 PAGE 4

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ROBERT L. ROEBER  
COUNTY AUDITOR

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DECLARATION OF CONDOMINIUM OWNERSHIP  
FOR  
INDIAN CREEK GARDEN CONDOMINIUMS

WHEREAS, FRANK FURLONG, hereafter referred to as Declarant, is the Owner in fee simple of the real property hereafter described; and

WHEREAS, it is the desire of Declarant to submit the land, together with the improvements thereon, pursuant to the provisions of Chapter 5311 of the Ohio Revised Code, for Condominium Ownership.

Now, therefore, the Declarant does hereby make the following declarations:

1. LEGAL DESCRIPTION. The Declarant does hereby subject the following described real estate to the provisions of Chapter 5311 of the Ohio Revised Code and said real estate and the improvements thereon shall be held under the terms and conditions of this Agreement, which shall be binding on said Declarant, its successors and assigns and all subsequent owners of all or any part of said real property and improvements, and their successors, heirs, executors, administrators, devisees or assigns.

Situate in the City of West Carrollton, County of Montgomery and State of Ohio, and being part of Lot 3835 Indian Creek Section 2 Garden Condominiums, as recorded in Plat Book 99, Page 32, of the Plat Records of Montgomery County, Ohio, and more particularly described on Exhibit A, attached hereto.

2.- DEFINITIONS. The following terms used herein are defined as follows:

(a) Association. Indian Creek Condominium Association, which is a non-profit corporation whose members are the Owners of Units in this Condominium and the corporation is organized to administer the Condominium Property, and being the Unit Owners Association for the Condominium as provided by statute.

(b) Declarant. Means Frank Furlong, his successors and assigns.

(c) Board of Managers. Shall refer to the Board of Trustees of the Association, which shall act as a Board of Managers of the Unit Owners Association.

(d) Common Expenses. Means those expenses designated as such by Chapter 5311 of the Revised Code and as provided in this Declaration and By-Laws to be shared by all of the Unit Owners.

(e) Common Profits. For any period of time means the amount by which the total income, rents, profits, receipts and revenues from the Common Areas and Facilities exceed the Common Expenses for said period.

(f) Common Loss. For any period of time means the amount by which the Common Expenses exceed the total income, rents, profits, receipts and revenues from the Common Areas and Facilities for said period.

(g) Unit Owner and Owner. Means the person or persons

natural or artificial, owning the fee simple estate in a Unit together with an undivided interest in the Common Areas and Facilities.

3. NAME. The Condominium Property shall be known as Indian Creek Garden Condominium.

4. (a) Purpose. The purposes of this Condominium are to provide separately designated and legally described fee hold estates consisting of Units as are hereafter described and as shown on the drawings attached hereto entitling the Unit Owner to the right to the exclusive ownership and possession of his Unit and to ownership of an undivided interest in the Common Areas and Facilities in the percentage as is expressed in this Declaration. There are no commercial facilities situated in this Condominium and the use of said Units shall be for single family residence purposes only.

(b) Intention. It is the intention of the Declarant to establish by this Declaration a Condominium consisting of forty-two (42) Units with the Declarant reserving to itself the right and powers to add additional land and improvements to the Plan of Condominium Ownership for the purpose of expanding the Plan to a maximum of 156 Units on a total of 10.630 acres. In the event that the Declarant under this reserved power, adds additional area and Units to this Declaration, it will be done in several phases, with each additional phase changing the proportionate interest of a Unit Owner in the Common Area and Facilities of the Condominium and in the proportionate share of each Unit Owner in the Common Profits and Common Expenses of the Condominium.

5. LIMITATIONS. The Declarant, for itself, its successors and assigns does hereby establish the following restrictions, which the Unit Owners by the acceptance of their deeds, whether or not specifically set out therein, covenant and agree that:

(a) Common Ownership. The Common Area and Facilities shall be owned by the Unit Owners as tenants in common and ownership thereof shall remain undivided.

(b) No Partition. No action for partition of any part of the Common Areas and Facilities shall be maintained, except as hereinafter provided in the event of damage to or destruction of all or any part of the Common Areas and Facilities.

(c) Access by Association. Each Unit shall be subject to the right of access for the purpose of maintenance, repair or service of any Common Areas and Facilities located within its boundaries or of any portion of the Unit itself in the event of any emergency or for public safety or in order to prevent damage to or destruction of any other part of the Condominium Property. Provided, however, the Association shall be required to restore the Unit to its condition prior to such maintenance, repair or service of any Common Areas and Facilities located within the Unit.

6. GENERAL DESCRIPTION OF BUILDINGS. There are four (4) buildings in this Condominium, three (3) buildings contain Units and the fourth building will be used as club house by the owners of the Units. Two of the buildings each contain 18 Units and the third building contains 6 Units. Building #1 contains 6 Units, attached thereto is a

*Sum*  
*Items are Discussed Here*

two-car garage and a separate four-car garage for use by the owners of Units in Building No. 1. Building No. 2 contains 18 Units, a six-car garage (attached to Building No. 1) and four separate three-car garages for the use by the owners of Units in Building No. 2. Building No. 3 is the club house and attached thereto is a six-car garage for the use of the owners of Units in Building No. 4. Building No. 4 contains 18 Units and in addition to the above, there are four separate three-car garages for the use of owners of Units in Building No. 4. There is a six-car garage and a four-car garage to provide additional parking for the Condominium.

The Buildings containing Units are 2-1/2 stories in height with garden type Units on each of the separate floors, the lower level Units have patios and the second and third floors have concrete balconies, poured slabs with roof coverings and wrought iron railings. The Buildings containing Units have poured concrete foundations, masonry exterior walls with brick, wood and aluminum trim, Flexicore roof with rigid insulation, Elastizell light weight concrete poured over the insulation and a built-up roof of three layers of mops, felt and pea gravel with metal stops. There are mansard jack roofs over the entrances and some windows with asphalt shingles. The roofs are divided by Flexicore slabs with the Flexicore slab over the third level being part of the roof system. The stairwell walls are 8" thick plastered block with a latex painted surface, stair treads, risers and hand rails are steel, treads are steel pans, with poured concrete. Windows are double glazed aluminum as are the sliding glass doors.

The garages are one (1) story in height with poured concrete footers and slabs, some are brick on block, others are frame and brick, some are partially constructed with concrete into the hills, some are part of another building and all have trussed roof with asphalt shingles applied.

The club house is one (1) story in height with poured concrete footers and slab, brick and block construction, trussed roof with asphalt shingles applied.

7. LOCATION OF BUILDINGS. The Buildings on the Condominium Property are numbered numerically; Building No. 1 is located on Eagle Nest Court, a private roadway that leads to Indian Trail, a public road; Building No. 2 is on Snowshoe Trail, a private roadway that leads to Indian Trail; Building No. 3 (Club House) is on Totem Pole Ct., a private roadway that leads to Indian Creek Boulevard that leads to Indian Trail; Building No. 4 is on Pine Tree Lane, a private roadway that leads to Indian Creek Boulevard. Each Unit has access to a public street for both vehicular and pedestrian traffic over the common area and private roadways to Indian Trail, a public road. The Buildings are further located on the drawings that are an exhibit hereto.

8. DESCRIPTION OF UNITS. Each Unit shall consist of the space bounded by the horizontal and vertical planes formed by the undecorated interior surfaces of its perimeter walls, windows, doors, floors and ceilings projected where appropriate, if any windows, doorways, pipes, ducts, wires or conduits or structural division such as interior walls or partitions intervene.

(a) Included in Unit. Included without limitation, are the following:

(1) The decorated surfaces, including paint, lacquer, varnish, wallpaper, tile and other finishing material applied to the floors, ceilings and interior and perimeter walls;

(2) All windows, screens, and doors, including the frame, sashes and jambs and the space occupied thereby;

(3) All fixtures located within the bounds of the Units, installed in and for the exclusive use of said Unit commencing at the point of disconnection from the structural body of the building and from utility pipes, lines or systems serving the entire building or more than one Unit thereof;

(4) All control knobs, switches, thermostats, and base plugs, floor plugs and connections affixed to or projecting from the walls, floors and ceilings which service either the Unit or the fixtures located therein, together with the space occupied thereby;

(5) All plumbing, electric, heating, cooling, and other utility or service lines, pipes, wires, ducts or conduits which serve either the Unit or the fixtures located therein and which are located within the bounds of the Unit;

(b) Types of Units. There are two (2) basic types of Units constructed that are generally described as follows:

Unit Type A consists of a foyer, kitchen with dinette space, dining room, living room, three bedrooms, and two baths, all on one floor. As Limited Common Area for the exclusive use of this type Unit is a patio if on the first level or a balcony if on the second or third level off the living room and also off of the master bedroom. Storage space as Limited Common Area is provided on the patio or balcony off of the living room. Such garage Units purchased will be assigned as Limited Common Area at the time of the conveyance of each Unit.

Unit Type A-1 is the basic Unit in Building 2 wherein the balcony off of the master bedroom has been eliminated and the space added to the master bedroom.

Unit Type A-2 is an A or A-1 type unit with a storage area that is available to only certain third floor units.

Unit Type B consists of a foyer, kitchen with dinette space, dining room, living room, two bedrooms and two baths all on one floor. As Limited Common Area for the exclusive use of this type Unit is a patio if on the first level and a balcony if on the second and third levels with storage space. Such garage Units purchased will be assigned as Limited Common Area at the time of the conveyance of each Unit.

Unit Type B-1 is the above described Unit with a storage area that is available to only certain third floor Units.

Some of the above type Units have fireplaces.



(c) Exclusive Use. The Owners of a Unit shall have the right of exclusive possession, use and enjoyment of the surfaces of all of its perimeter walls, fixtures and other parts of the Building within the boundary of his Unit, including the right to paint, tile, wax, paper or otherwise finish and refinish or decorate the Unit.

9. COMMON AREAS AND FACILITIES. The entire land and improvements thereon not included within a Unit shall be Common Areas and Facilities including, but not limited to, the driveways, roads, sidewalks, yards, gardens, recreational area, parking areas; all plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts and conduits which serve more than one Unit or for a common purpose of the Building; covering material of the Building, gutters, downspouts, exterior lighting fixtures, hose bibs and other facilities to service the Common Areas and Facilities that are attached to the Buildings, foundations, perimeter walls, roofs and all other parts of the Building necessary or convenient to its existence, maintenance, safety or normally in common use by more than one of the Owners. As part of the Common Areas and Facilities, the Declarant is constructing a club house, swimming pool, and three tennis courts for the benefit and use of all of the Owners of Units in the Condominium.

10. LIMITED COMMON AREA AND FACILITIES.

(a) Specific Uses. The following included in the Common Areas and Facilities and appurtenant or adjacent to a Building are deemed Limited Common Areas and Facilities designated and reserved for the exclusive use of the designated or appurtenant Unit(s).

(1) The patio or balcony(s) adjoining each Unit.

(2) If purchased with a Unit garage(s) will be assigned to each Unit at the time of conveyance of the Unit.

(3) An additional garage that will be assigned to a Unit if purchased with a Unit.

(4) Air conditioning unit and heat pump mounted on the roof.

(5) Electric meter mounted on the outside of the building.

(b) Garages. There are garage buildings constructed to accommodate 52 automobiles. As purchased, the garages will be assigned to a Unit. When all garage Units are assigned, an exhibit will be recorded to supplement this Declaration to identify each Unit and the garage(s) assigned thereto. The garages are numbered 1 through 42 with the 10 additional garage units numbered A through J and will be assigned by said numbers to the Unit having the same as a Limited Common Area.

(c) General Uses. All plumbing, electrical, heating, cooling and other utility service lines, pipes, wires, ducts and conduits which serve only one Unit shall be Limited Common Areas and Facilities for the exclusive use of the Unit served thereby.

11. PERCENTAGE OF INTEREST OF UNITS. The interest of each Unit in the Common and Limited Common Areas and Facilities of the Condominium and the respective share of the Unit Owners in the Common Expense and Common Profit and Losses of the Condominium are in proportion that the fair value of the Unit at the date this Declaration is filed of record, bears to the aggregate value of all the Units having an interest in the Common and Limited Common Areas and Facilities which are as shown on Exhibit F attached to this Declaration.

12. UNIT OWNERS ASSOCIATION. Indian Creek Condominium Association is a non-profit corporation organized to administer the condominium property. Each Unit Owner, upon acquisition of title to a Unit shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his Unit Ownership at which time the new Owner of said Unit automatically shall become a member of the Association.

(a) Board of Managers. The Board of Trustees and Officers of the Association elected as provided by the By-Laws of the Association, attached as an Exhibit to this Declaration, shall exercise the powers and discharge the duties and be vested with the rights conferred by operation of law, by the By-Laws and by this Declaration upon the Association.

(b) Voting Rights in Association. There shall be one (1) vote for each of the 42 Units comprising this Condominium, the percentage of interest of each Unit Owner in the Common Areas and Facilities and in the Limited Common Areas and Facilities are not applicable to the voting rights of Unit Owners or to determine a quorum for meetings of the Association. If and when additional Units are added to this Plan of Condominium Ownership, the number of votes will be increased by the number of Units added by the amendment.

13. ADMINISTRATION OF CONDOMINIUM PROPERTY. The administration of the Condominium Property shall be in accordance with the provisions of this Declaration and the By-Laws of the Association which are attached hereto as an Exhibit. Each Owner, tenant or occupant of a Unit shall comply with the provisions of the general law, this Declaration, the By-Laws, decisions and resolutions of the Association or its representatives, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages, or for injunctive relief.

14. STATUTORY AGENT. The person to receive service of process for the Association shall be Charles F. Allbery, having a place of business at 1200 American Building, Dayton, Ohio 45402. The statutory agent may be changed by the Association by the action of its officers.

15. ADDITIONS TO CONDOMINIUM PROPERTY AND RESERVATION OF RIGHTS. Declarant reserves the right to amend this Declaration from time to time, for a period of four years from the date it is filed of record, to add to and to include with the Condominium Property, all or any portion of the land as described on Exhibit A which is attached hereto and made a part hereof, and the buildings and improvements constructed thereon, and to change the percentage of interest of each Unit Owner in the Common Areas and Facilities established by this Declaration or any amendments to this Declaration.

(a) Additions Comparable. Declarant covenants and agrees that all residential units to be constructed by it on the additional land and to be added to the Condominium Property shall be comparable in appearance, design and quality to those which are subject to this Declaration, and of a comparable density with the first phase of development.

(b) Reservation of Easements. For the benefit of the additional land, Declarant hereby reserves for the owners and occupants of residential units to be constructed on the additional land, and for itself, easements over the driveways and walkways of the Condominium Property for ingress to and egress from the additional Condominium Units to dedicated streets. Declarant also reserves easements to enter upon the Condominium Property to make connections with and extend waterlines, sanitary or storm sewer lines, surface water drains, or other utility lines or services for the benefit of the additional land. Provided, however, the use of any easements or reserves shall not unreasonably interfere with the use and enjoyment of the Condominium Property, and the party using any such easement shall have the obligation to restore the easement area to as good or better condition than existed prior to the use of said easement.

(c) Power of Attorney. Each Owner by the acceptance of a deed conveying title to a Unit for himself and all those claiming under him, including mortgagees.

(1) Irrevocably appoints Declarant as his attorney in fact, to amend this Declaration by adding Units and the additional land upon which they are constructed to the Condominium Property and to determine and adjust the percentage of interest in the Common Areas and Facilities appurtenant to such Unit to the percentage which is the proportion that the fair value of such Unit bears to the value of all Units as of the date of such amendment, the power granted hereby being coupled with an interest.

(2) Waives the right to contest the validity or legality of any amendment to this Declaration which shall increase the number of Units and the size of the Common Areas and Facilities and adjust and reallocate the percentage of the undivided interest of the Owner or Owners of each Unit, in such Common Areas and Facilities; in accordance with the plan as set forth in this Declaration and carried into effect in such amendment.

(3) The effect of such amendment will be that the percentage of interest in the Common Areas and Facilities appurtenant to each Unit upon the recording of the amendment to this Declaration shall be automatically adjusted to the percentage of interest stated in said amendment by the partial divestment and release of a percentage of such interest and by the conveyance and allocation of an interest in the Common

Areas and Facilities of the additional land, so that the interest of any Unit Owner or of the holder of any mortgage in a Unit will attach to the percentage of interest stated in said amendment for the entire Condominium Property then existing.

(4) Agrees that this Declaration, and each amendment hereof, shall be deemed to be in all respect in compliance with Section 5311.04 (C) and Section 5311.05 of the Ohio Revised Code and that for purposes of this Declaration and Section 5311.04 (C) any changes in the respective percentages of interest of Unit Owners in the Common Areas and Facilities, as set forth in any amendment of this Declaration, shall be deemed to be made by the agreement of all Unit Owners.

(5) Agrees that the portion of the additional land, described in each amendment hereof, shall be governed, in all respects, by the provisions of this Declaration, and Declarant shall, to the extent necessary for the development of the then remaining additional land has such easements in and over the Common Areas of the Condominium Property, for ingress and egress, and for tapping into or connecting with sewer, water, surface water drainage, and utility lines as may be necessary for the development of the then remaining additional land, provided the same do not interfere with the use of such Common Areas and do not overburden the capacity of such lines.

(6) Agrees that the percentage of interest of each Unit Owner of the Common Areas and Facilities, following an amendment of this Declaration, shall be in the proportion that the fair value of the Unit owned bears to the fair value of all Units, as determined by the Declarant in such amendment.

(7) The right and interest of a holder of a deed to, or mortgage on, any Unit and the interest of such holder, in the Common Areas and Facilities, shall be subject to the reservation by the Declarant of the rights and interests set forth in this paragraph which shall be deemed and construed to be covenants running with the land for a period of four years from the date this Declaration is filed for record. It shall be a condition that each Unit Owner at the time of the acquisition of title to his Unit, shall execute and deliver a separate power of attorney from such Unit Owner to the Declarant setting forth the provisions and conditions as hereinbefore set forth in this paragraph of this Declaration.

(d) Form of Amendment. In order to amend this Declaration for the purpose of adding additional land and Units

to this Plan of Condominium Ownership, the Declarant may prepare, execute and record an instrument in writing for those purposes, for and on behalf of all Unit Owners with or without the Unit Owners' and their respective mortgagees' signatures thereto. 1 whether signed by each Unit Owner himself or executed by the Declarant under the power of attorney herein given, the President and Secretary of the Association shall also execute and acknowledge such amendments for and on behalf of the Association and the individual Unit Owners.

16. AMENDMENT OF DECLARATION AND BY-LAWS.

(a) Method of Amendment. Except as provided by Section 15, this Declaration and the By-Laws may be amended upon the filing for record with the Recorder of Montgomery County, of an instrument in writing setting forth specifically the item or items to be amended and any new matter to be added, which instrument shall have been duly executed by the 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 and must contain an affidavit by the President of the Association that a copy of the amendment has been mailed by certified mail to all mortgagees having a bona fide lien of record against any Unit.

(b) Effect of Amendment. No amendment shall have any effect, however, upon a bona fide first mortgagee until the written consent to such amendment of such mortgagee has been secured. Such consents shall be retained by the Secretary of the Association and his certification on the instrument of amendment as to the names of the consenting and non-consenting mortgagees of the various Units shall be sufficient for reliance by the general public. If less than all mortgagees consent to an amendment to this Declaration and/or the By-Laws, said amendment or modification shall nevertheless be valid among the Unit Owners, in whole or in part, provided that the rights of a non-consenting mortgagee shall not be derogated thereby.

(c) Prohibition. No provision in this Declaration by By-Laws may be changed, modified or rescinded, which, after such change, modification or rescission would conflict with the provisions of Chapter 5311 Ohio Revised Code.

(d) Correction Before Sale. Provided, however, prior to the conveyance of any Units, the Declarant may make corrections of any errors and omissions to this Declaration and exhibits and other amendments that may be required to satisfy any lender or title insurance requirements.

17. MANAGEMENT, MAINTENANCE, REPAIRS AND REPLACEMENT OF COMMON AREAS AND FACILITIES.

(a) Responsibility of the Association. Except as otherwise provided herein, or in the By-Laws, the management, maintenance, repair and replacement of the Common Area and Facilities shall be the responsibility of the Association, including such Common Areas and Facilities located within the bounds of a Unit, excluding, however,

the interior surfaces of any interior walls, floors, doors and ceilings and other surfaces of the Unit, the maintenance, repair or replacement of which is the responsibility of a Unit Owner. Nothing herein shall be deemed to create a contractual liability of the Association to a Unit Owner for the maintenance, repair or replacement of any parts of the Common Areas and Facilities at any time except as the Association deems necessary for the benefit of the Condominium Property and to preserve the value thereof. The Association may delegate all or any portion of its authority to discharge such responsibility to one or more independent contractors or to a managing agent. Such delegation to a managing agent shall be evidenced by a contract, no one of which shall exceed two (2) years in duration and which shall provide for the payment of reasonable compensation to said managing agent as a Common Expense. The Association agrees, upon the request of any mortgagees holding mortgages on more than 51% of the Units, to employ a managing agent for the Condominium Property that is acceptable to said mortgagees.

(b) Responsibility of Unit Owner. The responsibility of each Unit Owner shall be as follows:

- (1) To perform or have performed such work as is necessary to maintain, repair and replace at his expense all portions of his Unit and all internal installations of such Unit such as appliances and plumbing and electrical fixtures and installations located within the Unit bounds and not constituting a part of the Common Areas and Facilities;
- (2) To perform or have performed such work as is necessary to maintain, repair and replace at his expense all portions of the Limited Common Areas and Facilities designated for his use as hereafter provided;
- (3) To perform his responsibilities in such manner so as not to unreasonably disturb other persons residing within the Building;
- (4) Not to paint or otherwise finish or decorate or change the appearance of any portion of the buildings not within the bounds of the Unit, without the prior written consent of the Association;
- (5) To report promptly to the Association or its managing agent any defect or need for repairs of which he has knowledge, the responsibility for the remedying of which is with the Association;
- (6) Not to make any alterations in any portions of the building which are to be maintained by the Association or to remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety or soundness

of the buildings without the prior written consent of the Association;

(7) To pay all costs or utility services furnished to his Unit for which he is billed directly;

(8) Not to impair or obstruct any easement without the prior written consent of the Association and of any other persons for whose benefit such easement exists; and

(9) To observe, fulfill and perform all other obligations of a Unit Owner as set forth in this Declaration or the By-Laws or any rules adopted by the Association

(10) Each Unit Owner agrees to maintain, repair and replace at his expense all portions of the Common Areas and Facilities which may be damaged or destroyed by reason of his own act or neglect, or by the act or neglect of any tenant, guest, invitee or servant of such Unit Owner or occupant.

(c) Limited Common Areas and Facilities. The respective responsibilities for the maintenance, decoration, repair and replacement of the Limited Common Areas and Facilities which are appurtenant to each Unit shall be as follows:

(1) The cost of maintenance of each patio and/or balcony shall be the responsibility of the Unit Owner. The cost of repair or replacement shall be the responsibility of the Association.

(2) The cost of maintenance, repair and replacement of the air conditioning pad, heat pump, compressor, and lines, conduit and accessories shall be the responsibility of the Unit Owner.

(3) The cost of maintenance and decoration of the garage interior shall be borne by the Unit Owner to which they appertain. The cost of repair or replacement shall be the responsibility of the Association.

(4) The cost of maintenance, repair and replacement of the Limited Common Areas and Facilities not specifically delegated to a Unit Owner shall be the responsibility of the Association. Without limitation, but as an explanation, the Association shall be responsible for the cost of maintenance, repair and replacement of the soft water equipment, the exterior of the garages and the supply lines for utilities that are Limited Common Areas to a Unit.

(5) The work above outlined to be paid for by the Unit Owner shall be performed by the Unit Owner with the approval and under the supervision of the Association or the Architectural Control Committee appointed by the Association. Upon the request of the Unit Owner and after arrangements for the payment of the costs are made with the Association, the Association shall perform

such work. Should the Unit Owner fail to perform the work, after an appropriate notice, the Association may perform the work and assess the cost against the Unit as hereafter provided and as provided by the By-Laws.

(d) Construction Defects. The obligation of the Association and of Owners to repair, maintain and replace the portions of the 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 property. The undertaking or repair, maintenance or replacement by the Association or Owners shall not constitute a waiver of any rights against any warrantor if such rights shall be specifically reserved by a notification to the warrantor before commencing such repair, maintenance or replacement.

(e) Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Association and/or Unit Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to the benefits under any 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 their obligations hereunder.

18. EASEMENTS.

(a) Encroachments. In the event that, by reason of construction, settlement or shifting of the building or by reason of the partial or total destruction and rebuilding of the Building, any part of the Common Areas and Facilities presently encroaches or shall hereafter encroach upon any part of a Unit, or any part of a Unit presently encroaches or shall hereafter encroach upon any part of the Common Areas and Facilities or if by reason of the design or construction of any Unit it shall be necessary or advantageous to use or occupy any portion of the Common Areas and Facilities consisting of unoccupied space within the building and adjoining his Unit, or if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving any other Unit either presently encroaches or shall hereafter encroach upon any part of any Unit, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of each Unit and the Common Areas and Facilities, as the case may be, so long as all or any part of the Building containing such Unit shall remain standing. Provided, however, that in no event shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Common Areas and Facilities if such encroachment occurred due to the willful conduct of such Owner.

(b) Maintenance Easements. The Owner of each Unit shall be subject to easements for access arising from



necessity of maintenance or operation of the entire Building. The Owner of each Unit shall have the permanent right and easement through the Common Areas and Facilities for the use of water, sewer, power, television antenna and other utilities now or hereafter existing and shall have the right to hang pictures, mirrors and the like upon the walls of his Unit.

(c) Easements for Access. Each Owner shall have an easement for ingress and egress both vehicular and pedestrian over the Common Areas and Facilities to a public street. Any roadway or private street shown on the drawings recorded with this Declaration shall be for the general public that has a need to use the roadway or private street as a means of access to this property and a valid easement shall exist for the benefit of those having a need for such access, governmental agencies and authorities to provide police and fire protection and other services to the Condominium Property. Any party exercising a right to use any of the easements herein described shall have the duty to restore the Unit, Limited Common Area and Common Area and Facilities to a condition as good or better than existed prior to the use of said easement.

(d) Easements Granted. The Association may hereafter grant easements that it deems appropriate and that will not adversely affect the Units or Common Areas and Facilities. Such easement may be for any utility purposes or means of access over and across the Common Areas and Facilities, including the right to install, lay, maintain, repair and replace such improvements installed in such easement. Each Unit Owner hereby grants, and the transfer of title to a Unit shall be deemed to grant, the Association an irrevocable power of attorney to execute, acknowledge and record, for and in the name of such Unit Owner, such instruments as may be necessary to effectuate such easements.

(e) Easements Through Walls and Floors of Units. Easements are hereby declared and granted to the Association to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls or floors of the Unit, whether or not such walls or floors lie in whole or in part within the Unit boundaries; provided, always, that the Association shall restore such Unit to a condition as good or better than existed prior to the use of said easement.

(f) Easements to Run with Land. All easements and rights herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit and be binding on the Declarant, its successors and assigns, any Owner, purchaser, mortgagee and other person having an interest in said land, Unit or any part or portion thereof.

(g) Reference to Easements in Deeds. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed or conveyance

or in any mortgage or other evidence of ownership or obligation shall not defeat or fail to reserve said rights or easements, but the same shall be deemed conveyed or encumbered along with the Unit.

(h) Unit Owners to Execute. The Association on behalf of the Unit Owners may by the use of the power of attorney granted above, amend or release easements, any obligations incident thereto, relating to the Condominium Property or any part thereof and each Unit Owner by his acceptance of a deed to his Unit, agrees from time to time, as requested by the Association, to execute, acknowledge, deliver and record such instruments as may be necessary to effectuate the foregoing power of attorney, easements, amendments or releases of easements.

19. ASSESSMENTS AND LIENS OF ASSOCIATION.

(a) General. Assessments for the maintenance, repair and insurance of the Common Areas and Facilities and for the insurance of the Units, together with the payment of the common expenses, shall be made in the manner provided herein, and in the manner provided by the By-Laws of the Association.

(b) Division of Common Profits and Common Expenses of the Condominium. The proportionate shares of the separate owners of the respective Units in the common profits and the common expenses of the operation of the Condominium Property is based upon the proportionate estimated fair value at inception that each of the Units bears to the aggregate fair value of all of the Units. Such proportionate share of profits and expenses of each Unit Owner shall be in accordance with the percentages of interest in the Common Areas and Facilities heretofore set out, and shall be automatically adjusted in accordance with any changes to the percentages of interest by reason of an amendment of the Declaration to add land and Units to this Plan of Condominium Ownership.

(c) Non-Use of Facilities. No Owner of a Unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Areas and Facilities or by the abandonment of his Unit.

(d) Lien of Association. The Association shall have a lien upon the estate or interest in any Unit and its percentage of interest in the Common Areas and Facilities for the payment of the portion of the common expenses for the Condominium which remains unpaid for ten (10) days after the same have become due and payable from the time a certificate therefor, subscribed by the President of the Association, is filed with the Recorder of Montgomery County, Ohio, pursuant to authorization given by the Board of Managers of the Association. Such certificate shall contain a description of the Unit, the name or names of the record Owner or Owners thereof and the amount of such unpaid portion of the common expenses. Such lien shall remain valid for a period of five (5) years from the time of filing thereof, unless sooner released or satisfied in the manner provided by law for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of the

Court in an action brought to discharge such lien as hereinafter provided. In addition, the Owner of the Unit and any occupant thereof shall be personally liable for such expenses chargeable for the period of his ownership or occupancy.

(e) Priority of Association's Lien. The lien provided for above shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and lien of a bona fide first mortgage which have been theretofore filed for record, and may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association. In any such foreclosure action, the Owner or Owners of the Unit affected shall be required to pay a reasonable rental for such Unit during the pendency of such action, and the plaintiff in such action shall be entitled to the appointment of a receiver to collect the same. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

(f) Dispute as to the Common Expense. Any Unit Owner who believes that the portion of common expenses chargeable to his Unit, as common expenses of the Condominium or for the common expenses of the recreational area, for which a certificate of lien has been filed by the Association, has been improperly charged against him or his Unit, may bring an action in the Court of Common Pleas for Montgomery County, Ohio, for the discharge of such lien.

(g) Non-Liability of Purchaser at Foreclosure Sale. When the mortgagee of a first mortgage of record or other purchaser of a Unit acquires title to the Unit as a result of foreclosure of the first mortgage, or by deed in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or other assessments by the Association chargeable to such Unit which become due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the Units, including that of such acquirer, his successors and assigns.

(h) Liability for Assessments upon Voluntary Conveyance. In a voluntary conveyance of a Unit (other than deed in lieu of foreclosure), the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments due the Association for his share of common expenses up 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 therefor. Any interested party shall be entitled to a statement from the Board of Managers of the Association setting forth the amount of all unpaid assessments and the amount of the current assessment charge against a Unit and the parties interested in the transaction may rely thereon and not be liable for unpaid assessments in excess of the amount set forth in such statement for the period reflected in such statement.

20. INSURANCE. The Association shall carry fire and extended coverage, vandalism and malicious mischief, liability insurance and workmen's compensation insurance, if applicable, pertinent to the ownership, use and maintenance of the buildings, structures or other improvements now or at any time hereafter constituting a part of the Condominium Property and the cost thereof shall be a common expense.

(a) Fire and Extended Coverage. The Condominium Property shall be insured against fire and other perils covered by a standard extended coverage endorsement in an amount equal to the maximum insurable replacement value excluding foundation and excavation costs, as determined annually by the Board of Managers of the Association, but in no event in an amount less than 100% of the replacement value of all of the buildings and structures of the Condominium Property. The policy or policies shall not be more than eighty percent (80%) co-insurance. Such coverage shall also include interior walls within any Unit and the pipes, wires, conduits and ducts contained therein and further include all fixtures, equipment and trim within a Unit which were furnished with the Unit as standard items and the replacements thereof as are from time to time made.

(1) Such policy of insurance shall be so written as to provide for the issuance of certificates of insurance to mortgagees of individual Units and to provide such mortgagees at least ten (10) days notice prior to any cancellation of insurance.

(2) Any mortgagee may, to remedy any lack of insurance, but shall not be required to, advance premiums to keep the insurance in effect or to obtain new insurance policies in place thereof, and the amount so advanced shall be a Common Expense due immediately from the Association and a special assessment against all Unit Owners until paid without any necessity of any vote of the Unit Owners or the approval of the Association to establish the special assessment.

(3) The insurance policies shall provide for the release by the insurer thereof of any and all rights of subrogation, assignment or other rights of recovery against any Unit Owner and, if possible, his family, tenants and all other persons lawfully in possession, for recovery against any one of them for any loss occurring to the Condominium Property from any of the perils insured against by such insurance coverage.

(4) Proceeds of all insurance policies owned by the Association shall be paid to an Insurance Trustee selected by the Association (such Insurance Trustee shall be a local bank) and shall be held in a separate account and in trust for the purposes of repair or reconstruction as provided herein and for the benefit of the Unit Owners and their mortgagees as their interests may appear.

(5) No mortgagees shall have any right to apply the proceeds of insurance to the reduction of any mortgage debts.

(6) It shall be the responsibility of each Unit Owner to obtain individual contracts of insurance for his personal property located within the Unit or elsewhere in the Condominium Property. No Unit Owner may at any time purchase an insurance policy which covers property that is required to be insured by the Association. If a Unit Owner violates this provision by obtaining such type of insurance, said Unit Owner shall be responsible to the Association for any loss of funds, damages or delay in collecting any payments by reason of the overlap of insurance coverage and such amount of loss shall be a special lien on his Units as provided by the By-Laws.

(b) Liability Insurance. The Association, as a Common Expense, shall insure itself, the Board of Managers, all Unit Owners and members of their respective families and other persons residing with them in the Condominium Property, their tenants and all persons lawfully in possession or control of any part of the Condominium Property, against liability for bodily injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from the Common Areas and Facilities, such insurance to afford protection to a limit of not less than \$300,000.00 in respect to bodily injury, disease, illness or death suffered by any one person, and to the limit of not less than \$500,000.00 in respect to any one occurrence, and to the limit of not less than \$25,000.00 in respect to damage to or destruction of property arising out of any one accident.

(1) Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units or Limited Common Areas and Facilities appertaining thereto.

(2) It shall be each Unit Owner's responsibility to obtain insurance coverage at his own expense upon his Unit for his personal liability for occurrences within his Unit or upon the Limited Common Areas appertaining thereto and also for alternative living expenses in event of fire or other damage or destruction.

(c) Association Act for Unit Owner. Each Unit Owner, by Ownership of a Unit in the Condominium, shall be deemed to appoint the Association as his true and lawful attorney in fact to act in connection with all matters concerning the maintenance of fire and extended coverage, vandalism and malicious mischief, liability insurance and workmen's compensation insurance, if applicable, pertinent to the Condominium Property, his Unit and his interest in the Common Areas and Facilities with such insurer as may, from time to time, provide such insurance

for the Condominium Property. Without limitation on the generality of the foregoing, the Association as said attorney in fact shall have full power and authority to purchase and maintain such insurance, to collect and remit premiums therefor, to collect proceeds and to distribute the same to the Association, the Unit Owners and respective mortgagees as their interests may appear (subject always to this Declaration) to execute releases of liability, and to execute all documents and to do all things on behalf of such Unit Owners and the Condominium as shall be necessary or convenient in dealing with any insurance purchased by the Association.

21. RECONSTRUCTION OR REPAIR.

(a) Sufficient Insurance. In the event of any damage or destruction to the Condominium Property from any cause or peril insured against and the proceeds of any policy or policies shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration, or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied in payment therefor, unless the Unit Owners as hereafter provided elect not to restore the Condominium Property.

(b) Insufficient Insurance. In the event the improvements forming a part of the Condominium Property, or any part thereof, shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds shall not be sufficient to pay the cost of repair, restoration, or reconstruction, then, unless the Unit Owners elect not to restore the Condominium Property, such repair, restoration or reconstruction shall be undertaken by the Association.

(1) The cost of repair, restoration or reconstruction in excess of the insurance proceeds shall be borne by the Unit Owners in proportion to their respective percentage of interest in the Common Areas and Facilities. All insured damage of the Condominium Property shall be deemed underinsured in the same proportion.

(2) Should any Unit Owner refuse or fail to pay, after reasonable notice, his share of such cost in excess of the insurance proceeds the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be assessed to such Owner and such assessment, if not paid, may be enforced in the same manner as hereinabove provided for the non-payment of assessments.

(3) Provided, however, in the event of damage or destruction, the Unit Owner, by the affirmative vote of those entitled to exercise not less than seventy five percent (75%) of the voting power may elect not to repair or restore the same. Upon such election, all of the Condominium Property is

subject to an action for sale upon partition at the suit of any Unit Owner.

(4) In the event of any such sale by partition or other sale of the Condominium Property by agreement of all of the Unit Owners, after such election not to repair or restore the property, the net proceeds of the sale, together with the net proceeds of insurance 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 Areas and Facilities. No Unit Owner is entitled to receive any portion of his share of such proceeds until all liens and encumbrances of his Unit have been paid, released or discharged.

(c) Procedure for Reconstruction or Repair. Immediately after a casualty causing damage to any portion of the Condominium Property, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Managers deems necessary.

(1) The insurance proceeds and the sums deposited with the Insurance Trustee by the Association from collections of special assessments against Unit Owners on account of such casualty shall constitute a construction fund which shall be disbursed to the Insurance Trustee and be applied by the Insurance Trustee to the payment of the cost of reconstruction and repair of the Condominium Property from time to time as the work progresses, but not more frequently than once in any calendar month. Said Trustee shall make such payments upon the written request of the Association, accompanied by a certificate, dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work, who shall be selected by the Association, setting forth (1) that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials furnished, and that the sum requested does not exceed the value of the services and materials described in the certificate, (2) that except for the amount stated in such certificates to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the



basis of a vendor's, mechanic's, material-men's or similar lien arising from such work, and (3) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum so requested. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association.

(2) The Insurance Trustee may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be reconstructed or repaired. The Association, upon request of the Insurance Trustee, shall deliver such certificate as soon as practical.

22. REAL ESTATE TAXES. Each Unit and its percentage of interest in the Common Areas and Facilities shall be deemed to be a separate parcel for all purposes of taxation and assessments of real property and no other Unit or other part of the Condominium Property shall be charged with the payment of such taxes and assessments. Each Unit Owner will be solely responsible for his individual Unit tax bills.

23. REHABILITATION. The Association may, by the affirmative vote of Unit Owners entitled to exercise not less than seventyfive percent (75%) of the voting power determine that the Condominium Property is obsolete in whole or in part and elect to have same renewed and rehabilitated. In such event, any Unit Owner who does not vote for such renewal and rehabilitation shall elect to receive the fair market value of his ownership interest, the amount of any liens and encumbrances thereon, in accordance with the provisions of Section 29 hereof.

24. RESTRICTIONS AS TO USE AND OCCUPANCY OF CONDOMINIUM PROPERTY.

(a) Restrictions. The covenants and restrictions hereinafter set forth as to the use and occupancy of the Condominium Property shall run with the land and shall be binding upon each Unit Owner and occupant.

(b) Use of Property. The Condominium Property shall be used for residential purposes only and no portion of such property shall be used for business or commercial purposes. No structures shall be constructed upon the Condominium Property other than the residential Units and garage or other structures intended for residential use and appurtenances thereto. Each living Unit shall be occupied only by a single family and its guests as a residence and for no other purpose whatsoever.

(c) Lawful Use. No immoral, improper or offensive or unlawful use shall be made of the Condominium Property or any part thereof and all valid laws, zoning ordinances and regulations of all governmental authorities having



jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental authorities which shall require maintenance, modification or repair of the Condominium Property shall be the same as the responsibility for maintenance and repair of the property concerned.

(d) Hazard Use and Waste. Nothing shall be done or kept in any Unit or in the Common Area and Facilities which will increase the rate of insurance on the Common Areas and Facilities or on any other Unit on the Condominium Property or contents thereof without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which will result in the cancellation of insurance on the Common Areas and Facilities or other Units on the Condominium Property or contents thereof, or which would be in violation of any law. No waste shall be committed in the Common Areas and Facilities.

(e) Obstruction of Common Areas and Facilities. There shall be no obstruction of nor shall anything be stored in the Common Areas and Facilities excluding those areas designated for parking of vehicles or for the location of central waste disposal containers or other uses authorized by the Association. Garage doors will not be left open.

(f) Exterior Appearance. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung out or exposed from any Unit or in any Limited or Common Areas (except as hereinafter provided) and such Common Areas and/or Limited Common Areas shall be kept free and clear of rubbish, debris or other unsightly material. Nothing shall be hung or displayed on the outside wall of any building and no awning, canopy, shade, window guard, ventilator, fan, air conditioning device, radio or television antenna may be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Association. If the Association may so designate, it shall designate areas which may be utilized by the occupants for hanging clothes, sheets, blankets or any other articles outside to dry, but in no event shall such articles be left outdoors overnight or on Saturdays and/or Sundays. The above shall not prohibit the normal use of any balcony so long as the use and display of materials thereon are not unsightly or dangerous. Drapes or curtains will be white in color or will be lined with white material. If shutters are used in the windows, they will be white or off white in color.

(g) Animals and Pets. No animals, rabbits, livestock, fowl or poultry of any kind shall be raised or bred or kept in any Unit or in the Common Areas and Facilities except that dogs, cats and other household pets may be kept in the Units subject to the Rules and provided that they are not kept, bred or maintained for any commercial purpose. Notwithstanding anything herein, or in the Rules to the contrary, any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Condominium Property upon three (3) days' written notice from the Board of Managers.

(h) Nuisances. No nuisances shall be allowed upon the Condominium Property nor any use or practice which is the source of nuisances to residents or which interferes with

the peaceful possession and proper use of the property by its residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. There shall be no playing, lounging or parking of baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Areas and Facilities not within the bounds of the Unit or within the bounds of the Limited Common Areas of each Unit except in accordance with the rules that may be adopted by the Association.

(i) Impairment of Structural Integrity of Building. Nothing shall be done in any Unit or in, on or to the Common Areas and Facilities or Limited Common Areas and Facilities which would impair the structural integrity or structurally change any of the buildings. Further, nothing shall be altered, constructed or removed from or added to the Common Areas and Facilities or Limited Common Areas and Facilities except as provided in this Declaration without the prior written consent of the Association nor shall anything be done which would or might jeopardize or impair the safety or soundness of the Common or Limited Areas and Facilities.

(j) Prohibited Activities. No industry, business trade, occupation or profession of any kind, commercial, religious, educational or otherwise shall be conducted, maintained or permitted on any part of the Condominium Property.

(k) Signs. No "For Sale" or "For Rent" signs or other displays or advertising shall be maintained or permitted on any part of the Common or Limited Common Areas and Facilities or Units. The right is reserved to Declarant to place "For Sale" or "For Rent" signs in connection with any unsold or unoccupied Units it may from time to time own. The same right is reserved to any institutional first mortgagee or owner or holder of a mortgage originally given to an institutional first mortgagee which may become the Owner of a Unit and to the Association as to any Unit which it may own. In any other cases, permission must be first obtained from the Association before any such sign may be displayed.

(l) Rental of Units. No Unit shall be rented by the Unit Owner for transient or hotel purposes. For the purpose of this provision, a "transient or hotel purpose" shall be defined as a rental for a period less than thirty (30) days or rental to an occupant wherein customary hotel service such as furnishing or laundry and linens and room service is maintained. Other than the foregoing, Unit Owners shall have the right to lease their respective Units provided that said lease is made subject to the covenants and restrictions in this Declaration and the By-Laws and Rules and any occupant shall be subject to all of said Regulations and Rules as though the occupant were the Unit Owner. Nothing herein contained shall permit a Unit Owner to be relieved from any duties or responsibilities or obligations hereunder because his Unit is occupied by a third party.

25. REMEDIES FOR BREACH OF COVENANTS AND RULES: If any Unit Owner or any occupant of a Unit shall violate any rules or breach any covenant or provision contained in this Declaration or in the By-Laws, the Board of Managers or its representative shall have the right in addition to any rights provided by law or hereinafter set forth to:

(1) Enter into any Unit in which or as to which such violation or breach exists and to summarily abate and remove at the expense of the Owner of such Unit, any

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structure thing or condition that may exist therein contrary to the intent and meaning of the provisions thereof or hereof, and the Association or its agents shall not thereby be deemed guilty in any manner of trespass or

(2) To enjoin, abate or remedy by appropriate legal proceedings either at law or in equity, the continuance of any breach.

26. REMOVAL OF PROPERTY FROM PROVISIONS OF CHAPTER 5311. Anything in Chapter 5311 of the Ohio Revised Code to the contrary notwithstanding, the Unit Owner by the affirmative vote of those entitled to exercise not less than seventy five percent (75%) of the voting power, may elect to remove the Condominium Property from the provisions of Chapter 5311. Any Unit Owner who does not vote for such removal may elect to receive the fair market value of his ownership interest, less the amount of any liens and encumbrances thereon, in accordance with the provisions of Section 27 hereof.

27. PROCEEDINGS CONCERNING DISSENTING OWNERS. Any Unit Owner who is entitled to notice of a meeting called to act upon any of the matters mentioned in Sections 23 and 26 hereof and who does not vote in favor of such matters shall be entitled, upon complying with the provisions of this Article, to receive the fair market value of his ownership interest, as of the date such vote is taken, less the amount of any liens and encumbrances thereon. Such Unit Owner, in order to become entitled to such receipt, shall serve a written demand therefor upon the President or other chief officer of the Association within five (5) days after receiving notice of such vote. The Unit Owner shall specify in such demand his name and address, the Unit of which he is the Owner and, with respect to which such demand is made, the amount claimed by him as constituting such value and the amount of such liens and encumbrances thereon. If the Board is unwilling to pay the amount so demanded, the Board may, on behalf of the Association, within fifteen (15) days after the service of such written demand, so notify the Unit Owner and make a counter-offer of a different amount as the fair market value of the Ownership interest as to which demand has been made in compliance herewith. Either the Association or the Unit Owner at any time within twenty (20) days after the service of such demand or counter-offer, whichever is later, may agree upon a different amount or either may within said twenty (20) day period serve a written notice on the other that he or it desires that the determination of the fair market value of such Unit shall be made by a Board of Appraisers. In such case, the fair market value shall be determined by the majority vote of a Board of three (3) appraisers, one of whom shall be appointed by the Board and the other whom shall be appointed by the Unit Owner and the two appointed appraisers shall appoint a third appraiser. Each appointment shall be made five (5) days after receipt by the other party of the aforesaid notice, to have the ownership interest appraised and the third appointment by the two appraisers chosen by the parties shall be appointed within five (5) days after the two appraisers are appointed. The fair market value, determined as above provided, of such ownership interest less the amount of any liens and encumbrances thereon as above provided shall be paid within thirty (30) days to the Unit Owner in return for a conveyance of his ownership interest, subject to any liens and encumbrances thereon, to the President or Secretary of the Association as Trustee for all of the Unit Owners. Such payment of the consideration therefor shall be a common expense to the Unit Owners who have not elected to receive the fair market value of their Units. In the event that the fair market value is being determined as a consequence of the removal of the Condominium Property from the provisions of Chapter 5311, the

appraisal shall be determined as to value of the Unit after said removal.

28. MISCELLANEOUS PROVISIONS.

(a) Action Without Meeting. Any action which may be authorized or taken at a meeting of the Board of Managers may be authorized or taken without a meeting with the affirmative vote or approval of, and in a writing or writings signed by all of the members of the Board respectively, which writing or writings shall be filed with or entered upon the records of the Association. Any certificate with respect to the authorization or taking of any such action which is required to be filed with the Recorder of Montgomery County shall recite that the authorization of taking such action was in writing or writings approved and signed as specified in this article.

(b) Declarant's Rights Pending Sale of Units. Until such time as Declarant shall have consummated the sale of a sufficient number of ownership interests to entitle the Unit Owners, other than Declarant, to exercise seventy-five percent (75%) of the voting power in the Association and a meeting of the Association at which a Board is elected has been held, Declarant shall 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 and assessments for Common Expenses.

(c) Notices of Mortgages. Any Unit Owner who mortgages his ownership interest or interests therein shall notify the Association, in such manner as the Association may direct, of the name and address of his mortgagees 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 its working records.

(d) Copies of Notices to Mortgage Lenders. Upon written request to the Board, the holder of any duly recorded mortgage on an ownership interest or interests therein shall be given a copy of any and all notices permitted or required by this Declaration or By-Laws to be given to the Unit Owner or Owners whose ownership interest or interests therein is subject to such mortgage.

(e) Covenants Running with the Land. Each Unit Owner by the acceptance of a deed of conveyance from Declarant 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, and 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 land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

(f) Termination. Upon the removal of the Condominium Property from the provisions of Chapter 5311 of the Ohio Revised Code, all easements, covenants and other rights, benefits, provisions and impositions and obligations declared herein to run with the land or any ownership interest or interests therein shall terminate and be of no further force or effect.

(g) 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.

(h) Severability. The invalidity of any covenant, restrictions, condition, limitation of any other provisions of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity and enforceability or effect of the rest of this Declaration.

(i) Liability. Neither the Declarant nor any employee, agent, successor or assign of the Declarant shall be liable for any claim or damage whatsoever arising out of or by reason of any actions performed pursuant to or in accordance with any authority granted or delegated to them or any of them by or pursuant to this Declaration or in the capacity of the Declarant, Unit Owner, Managing Agent or seller of the Condominium Property or any part thereof, whether or not such claim shall be asserted by any Unit Owner, occupant, the Board, the Association, or by any person or entity claiming by or through any of them. 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 act or neglect of any Unit Owner, occupant, the Board, the Association, the Managing Agent or the respective agents, employees, guests, tenants, invitees and servants or by reason of the failure to function or disrepair of any utility services, including without limitation, heat, air conditioning, electricity, gas, water, sewerage and light.

(j) Insufficiency of Insurance. In the event the insurance effected by the Association or managing agent on behalf of the Unit Owners and occupants against liability for personal injury or property damage arising from or relating to the Common Areas and Facilities shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a common expense to the Unit Owners, and any Unit Owner who shall have paid all or any portion of such deficiency in an amount exceeding his proportionate share thereof based on his percentage of interest in the Common Areas and Facilities shall have a right of contribution from the other Unit Owners according to their respective percentages of interest in the Common Areas and Facilities. The right to contribution shall not apply to the parts of the Common Areas and Facilities that are designated as Limited Common Areas.

(k) Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Condominium development.

(l) Assignment. Frank Furlong agrees that he will not assign his interest in the Declarant herein without first obtaining the consent of any mortgagee holding mortgages on more than 50% of the Units herein described.

(m) Tennis Courts. Declarant reserves the right to permit the tenants of Indian Creek Apartments to use one of the tennis courts that is Common Areas and Facilities of this Condominium. Said use will be on a fee basis chargeable to the owner of the apartment project under a lease agreement with the Association.

IN WITNESS WHEREOF, FRANK FURLONG and AILEEN J. FURLONG, his wife have executed this instrument this 9<sup>th</sup> day of December, 1976.

In the presence of:

John Judge

Frank Furlong  
FRANK FURLONG

Kay C. Moore

Aileen J. Furlong  
AILEEN J. FURLONG

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

Before me, a notary public in and for said County, personally appeared the above named FRANK FURLONG and AILEEN J. FURLONG, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, this 9<sup>th</sup> day of December, 1976.

Edith W. Patton  
NOTARY PUBLIC

EDITH W. PATTON, NOTARY PUBLIC IN AND FOR MONTGOMERY COUNTY, OHIO  
MY COMMISSION EXPIRES NOV. 30, 1980

# INDEX OF EXHIBITS

## EXHIBIT

- A - DESCRIPTION - 5.007 acres
- A-1 - EXPANDED DESCRIPTION
- B - ELEVATION DRAWINGS
- C - FLOOR PLANS BUILDINGS 1, 2 and 4
- D - FLOOR PLAN Units 25 and 27
- FLOOR PLAN Units 38 and 40
- FLOOR PLAN Units 7 and 9
- FLOOR PLAN Units 20 and 22
- FLOOR PLAN Unit 42
- FLOOR PLAN Unit 24
- FLOOR PLAN Unit 29
- FLOOR PLAN Unit 11
- FLOOR PLAN Units 1, 3, 19, 21, 23, 37, 39 & 41
- FLOOR PLAN Units 2, 4, 6, 14, 16, 18, 32, 34 & 36
- FLOOR PLAN Units 13, 15, 31 and 33
- FLOOR PLAN Units 8, 10, 12, 26, 28 and 30
- FLOOR PLAN Units 17 and 35
- FLOOR PLAN Unit 5
- E - ARTICLES OF INCORPORATION
- F - PERCENTAGE OF INTEREST
- G - CONDOMINIUM RECORD PLAN
- H - BY-LAWS OF INDIAN CREEK CONDOMINIUM ASSOCIATION

# John W. Judge Engineering Company

## CONSULTANT ENGINEERING

1201 EAST DAVID ROAD

DAYTON, OHIO 45420

Description of land containing Buildings  
No. 1, 2, 3, and 4 and the Tennis Courts  
in Indian Creek, Section Two

Situate in Section 14, Town 1, Range 6 MRS, City of West Carrollton, Montgomery County, Ohio and being part of lot numbered 3835, Indian Creek, Section Two as recorded in Book 99, Page 32 of the Montgomery County Plat Records and being more particularly described as follows:

Beginning at the northeast corner of Indian Creek, Section One as recorded in Book 91, Pages 101 and 102 of the Montgomery County Plat Records, said point being on the west right-of-way line of Interstate Route 75;

thence from said place of beginning with the north boundary of said Indian Creek, Section One S 80° 01' 50" W a distance of 200.79 feet to a point; thence N 9° 58' 10" W a distance of 180.00 feet to a point; thence S 80° 01' 50" W a distance of 93.00 feet to a point; thence S 57° 59' 53" W a distance of 193.42 feet to a point; thence S 7° 30' 30" E a distance of 70.00 feet to a point; thence on a new division line S 80° 41' 02" W a distance of 144.64 feet to a point on the east right-of-way line of Indian Trail in said Indian Creek, Section 2; thence with said east right-of-way line northwestwardly on a curve to the left an arc distance of 46.36 feet to a point, said curve having a radius of 354.22 feet, a chord distance of 46.33 feet and a chord bearing of N 5° 33' 58" W; thence N 9° 18' 58" W a distance of 280.00 feet to a point; thence northeastwardly on a curve to the right an arc distance of 46.37 feet to a point, said curve having a radius of 50.00 feet, a chord distance of 44.72 feet and a chord bearing of N 17° 14' 56" E; thence northwestwardly on a curve to the left an arc distance of 167.10 feet to a point, said curve having a radius of 50.00 feet, a chord distance of 99.50 feet and a chord bearing of N 51° 55' 35" W; thence N 32° 20' 00" E a distance of 164.52 feet to a point; thence N 68° 30' 00" E a distance of 237.13 feet to a point; thence with new division lines S 21° 30' 00" E a distance of 265.82 feet to a point; thence S 29° 30' 00" W a distance of 115.33 feet to a point; thence S 60° 30' 00" E a distance of 170.98 feet to a point; thence N 80° 01' 50" E a distance of 40.00 feet to a point; thence N 29° 30' 00" E a distance of 130.00 feet to a point; thence N 80° 01' 50" E a distance of 86.64 feet to a point on the east line of said Indian Creek, Section Two and the west right-of-way line of Interstate Route 75; thence with said west right-of-way

- 76 669C08 -



A

Description of Land containing Buildings No. 1, 2, 3 and 4 and  
the Tennis Courts in Indian Creek, Section Two, continued ....

line S 8° 37' 30" E a distance of 175.46 feet to a point; thence  
S 9° 58' 10" E a distance of 114.94 feet to the place of beginning  
containing 5.007 acres, more or less, subject, however, to all  
legal highways and easements of record.

Deed Reference: Book 2530, Pages 285 and 290

*John W. Judge*

John W. Judge  
December 21, 1976

REGISTERED ENGINEER  
AND SURVEYOR

A-1

TELEPHONE  
294-1451

# John W. Judge Engineering Company

CONSULTANT ENGINEERING

1201 EAST DAVID ROAD

DAYTON, OHIO 45429

Description of Land containing Buildings  
No. 5 and 6 on Indian Creek, Section Two

Situate in Section 14, Town 1, Range 6 MRS, City of West Carrollton, Montgomery County, Ohio and being part of Lot numbered 3835, Indian Creek, Section Two as recorded in Book 99, Page 32 of the Montgomery County Plat Records and being more particularly described as follows:

Beginning at a point on the west right-of-way line of Interstate Route 75 at the northeast corner of said Indian Creek, Section Two;

thence from said place of beginning S 8° 37' 30" E with said west right-of-way line a distance of 374.54 feet to a point; thence with new division lines S 80° 01' 50" W a distance of 86.64 feet to a point; thence S 29° 30' 00" W a distance of 130.00 feet to a point; thence S 80° 01' 50" W a distance of 40.00 feet to a point; thence N 60° 30' 00" W a distance of 170.98 feet to a point; thence N 29° 30' 00" E a distance of 115.33 feet to a point; thence N 21° 30' 00" W a distance of 265.82 feet to a point on the north line of said Indian Creek, Section Two; thence with said north line N 68° 30' 00" E a distance of 83.12 feet to a point; thence N 80° 01' 50" E a distance of 248.43 feet to the place of beginning containing 2.920 acres, more or less, subject, however, to all legal highways and easements of record.

Dead Reference: Book 2530, Pages 285 and 290

*John W. Judge*  
John W. Judge  
February 16, 1976

- 76 669C10 -

A-1

# John W. Judge Engineering Company

CONSULTANT ENGINEERING

1281 EAST DAVID ROAD

DAYTON, OHIO 45429

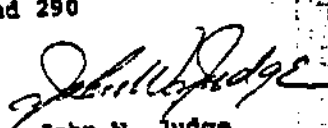
Description of the land to contain  
condominiums north of and adjacent  
to Indian Creek, Section 2

Situate in Section 14, Town 1, Range 6 MRS, City of West Carrollton, Montgomery County, Ohio and being a part of Skyview Estates as recorded in Book Y, Page 79 of the Montgomery County Plat Records and vacated by the Common Pleas Court of Montgomery County and recorded in Micro-fiche 75-143 D 02 of the Deed Records.

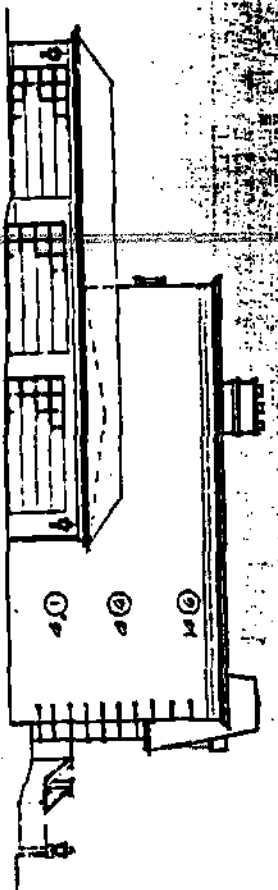
Beginning at a point on the west right-of-way line of Interstate 75 at the northeast corner of Indian Creek Section 2 as recorded in Book 99, Page 32 of the Montgomery County Plat Records;

thence from said place of beginning with the north line of said Indian Creek, Section 2 S 80° 01' 50" W a distance of 248.43 feet to a point; thence S 68° 30' 00" W a distance of 302.25 feet to a point; thence leaving the boundary of Indian Creek, Section 2 N 22° 10' 17" W a distance of 527.90 feet to a point on the north line of the former Skyview Estates; thence with said north line N 57° 42' 40" E a distance of 423.00 feet to a point; thence N 69° 45' 40" E a distance of 260.98 feet to a point on the west right-of-way line of Interstate 75; thence S 8° 37' 30" E with the right-of-way line a distance of 592.50 feet to the place of beginning containing 7.710 acres, more or less, subject, however, to all legal highways and easements of record.

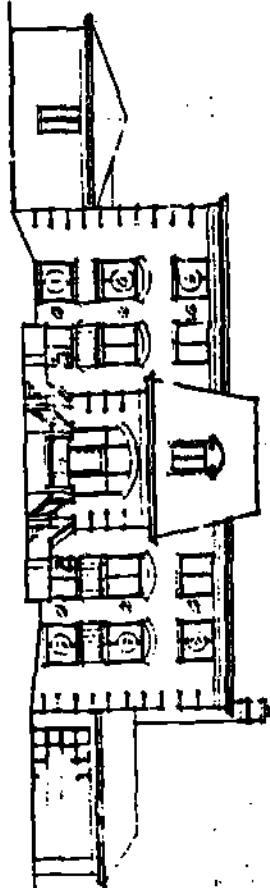
Deed Reference: Book 2530, Pages 285 and 290

  
John W. Judge  
December 23, 1976

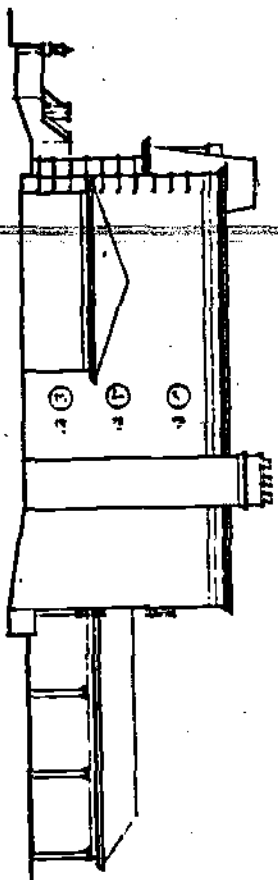
- 76 669C11 -



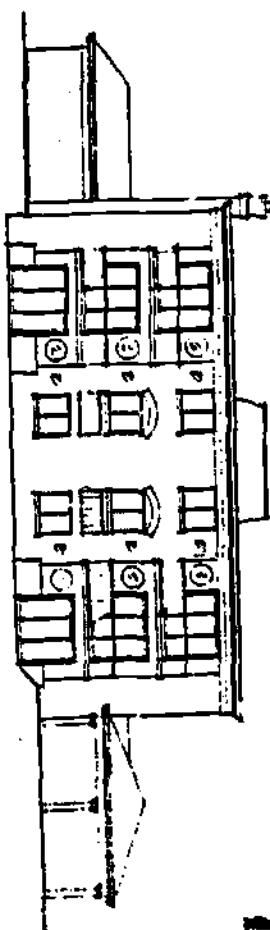
LEFT ELEVATION



FRONT ELEVATION



RIGHT ELEVATION



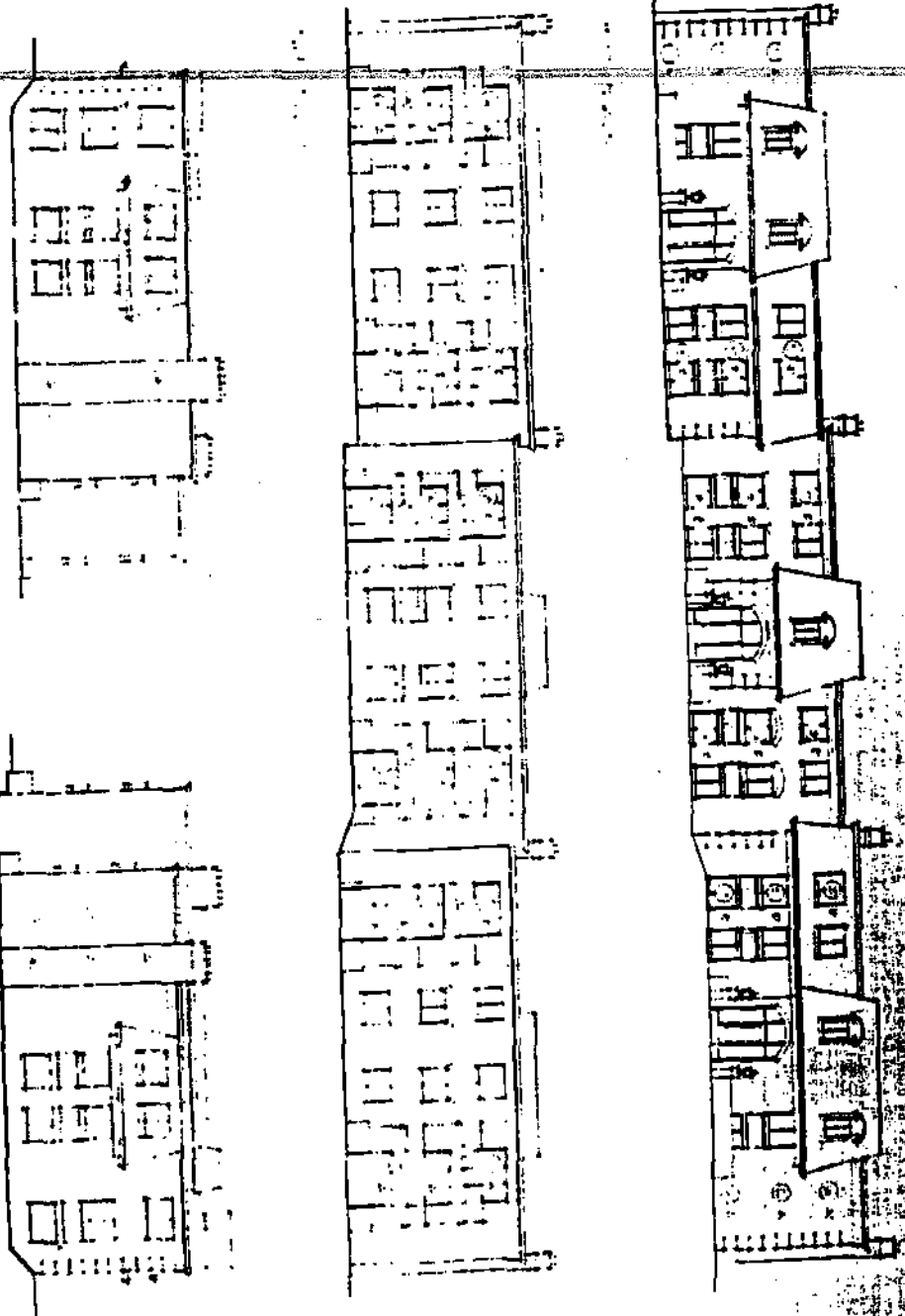
REAR ELEVATION

PLANNING No. 1  
STREET FRONT, REAR, AND SIDE ELEVATIONS  
AND F.P.D.

I hereby certify that the above drawings are  
correct and true to the best of my knowledge  
and belief.  
JAMES L. WATSON, ARCHT.



THESE DRAWINGS, A SETTING, AND EACH SHEET, HAVE BEEN  
FILED FOR RECORDATION IN THE OFFICE OF THE  
CLERK OF THE DISTRICT COURT OF THE DISTRICT OF  
COLUMBIA, AND WILL BE AVAILABLE FOR THE  
CONSIDERATION OF ANY PERSON INTERESTED IN THE  
MATTER.  
JAMES L. WATSON, ARCHT.



Having only a few days left to go before the  
 completion of the new building, the  
 architect is now in a position to  
 give a final report on the progress of the  
 work. It is a pleasure to report that the  
 building is now nearly complete and that  
 the architect is confident that it will be  
 ready for occupancy in a few days.

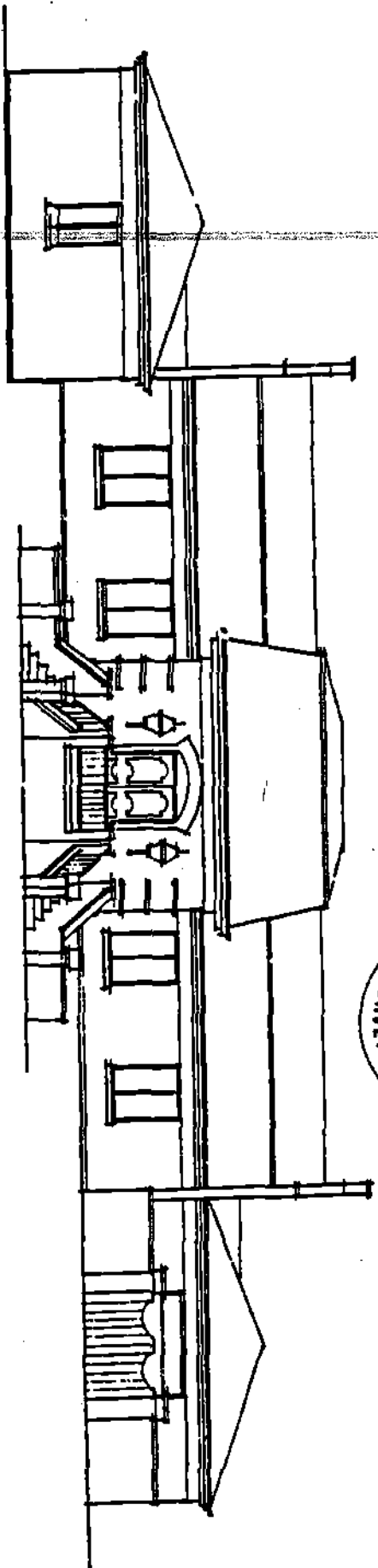


The architect is now in a position to  
 give a final report on the progress of the  
 work. It is a pleasure to report that the  
 building is now nearly complete and that  
 the architect is confident that it will be  
 ready for occupancy in a few days.

I hereby certify this drawing accurately shows the building as constructed in Indian Creek Garden Condominium

John W. Judge Engineering Company

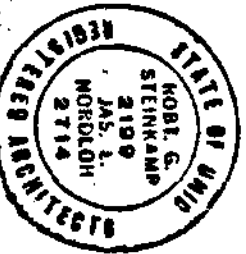
By: John W. Judge, Reg. Surveyor No. 4671



FRONT ELEVATION

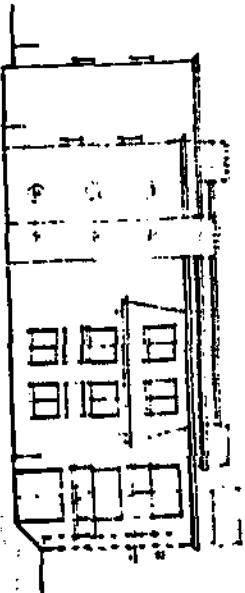
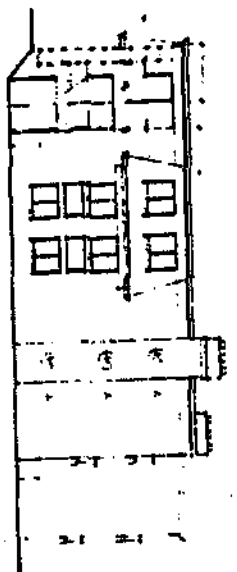
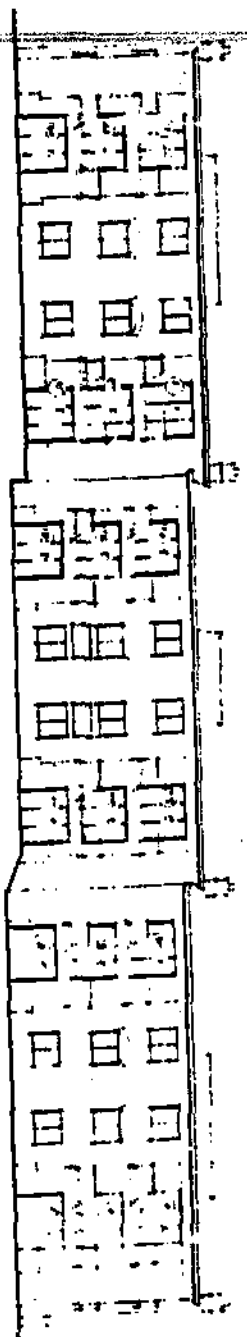
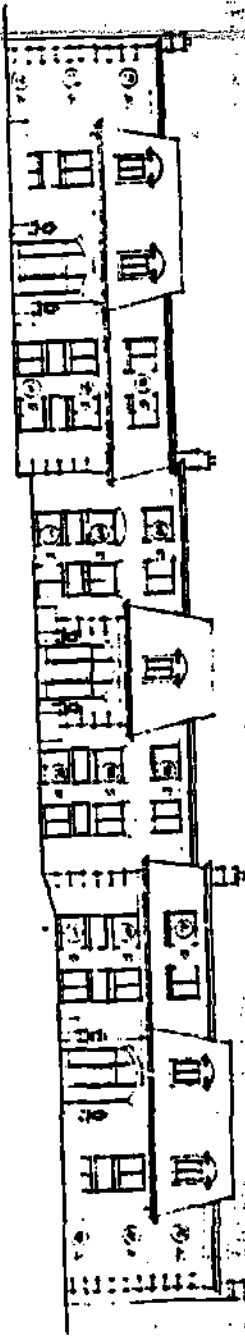
BUILDING No. 2

INDIAN CREEK GARDEN CONDOMINIUM



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT IS A TRUE AND ACCURATE REPRESENTATION OF THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLOH, ARCHITECT



100' 0" 0"



100' 0" 0"



100' 0" 0"



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THE CONTENTS OF THIS CONDOMINIUM FLOOR PLAN ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE CONDOMINIUM AS INTENDED BY THE OWNER.

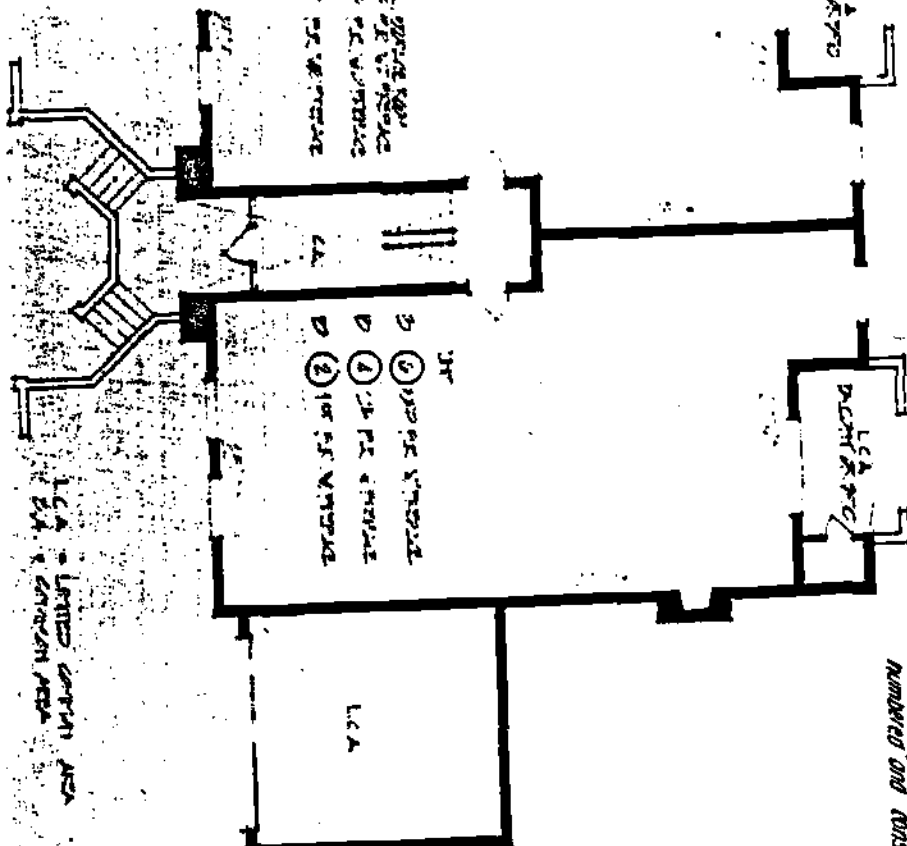
JAMES L. NONNON, ARCHITECT

I hereby certify this drawing accurately shows the building as shown numbered and described in the Condominium Declaration and Condominium Bylaws.

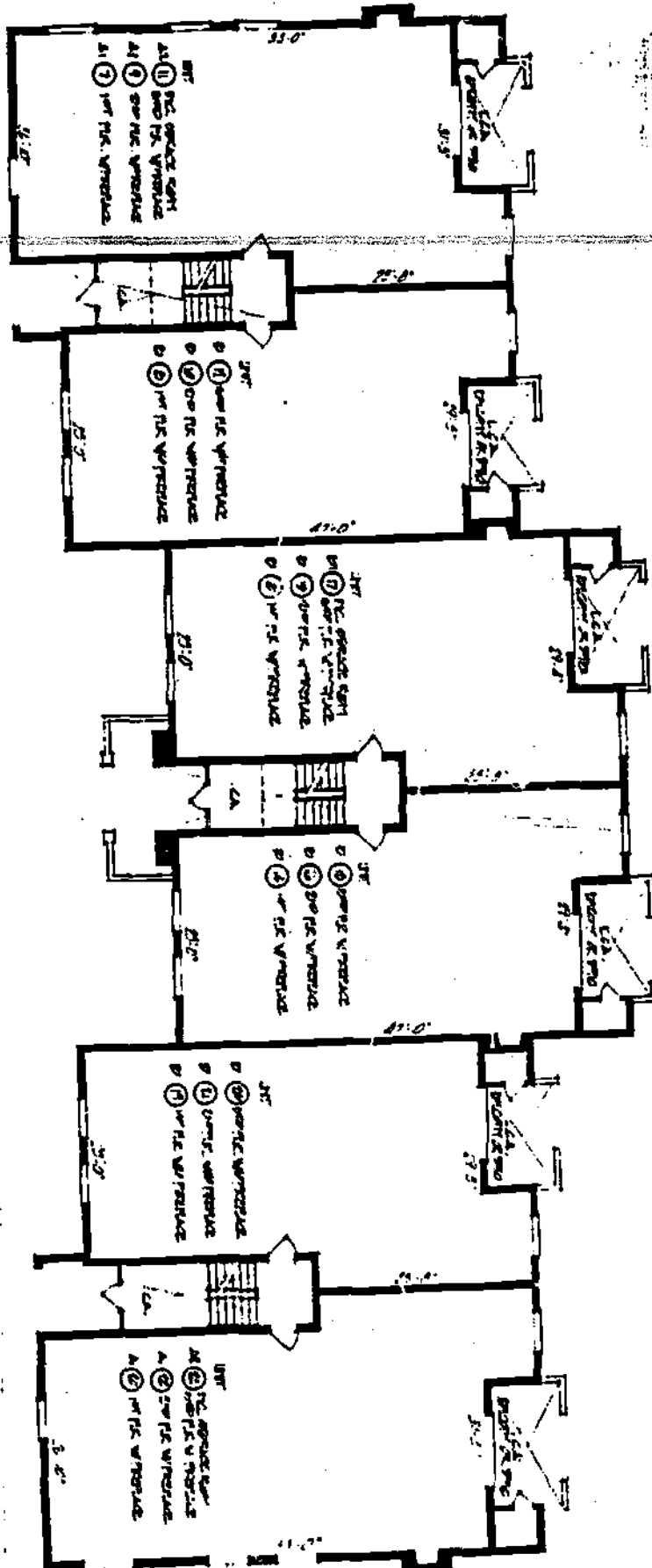
By \_\_\_\_\_ JAMES L. NONNON, ARCHITECT



BUILDING No. 1  
FLOOR PLAN  
UNIT No. 1-6







BUILDING No. 2  
 1000 W.P. WINDSHIELD

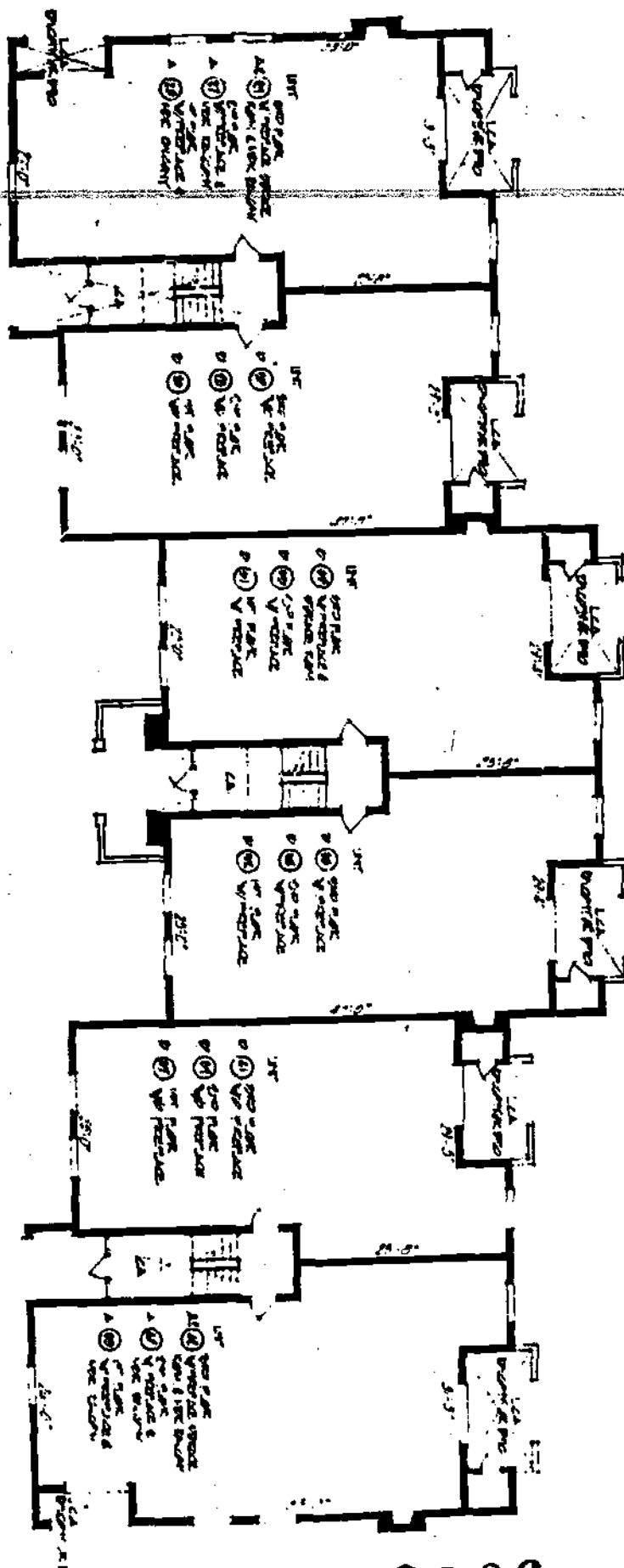


I hereby certify that drawing accurately shows the building and its contents and has been prepared in accordance with the Department of Defense regulations.



1000 W.P. WINDSHIELD

THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFY THAT THE DRAWING IS A TRUE AND CORRECT REPRESENTATION OF THE BUILDING AND ITS CONTENTS AS CONSTRUCTED AND OPERATING UNDER THE PATENT RIGHTS OF THE DEPARTMENT OF DEFENSE.



# **BUILDING No. 4**

1. Any entry and living areas, stairs, and a central hall, located in plan, are shown in black.



THE UNDERSIGNED, A REGISTERED P.E., BY THE ACT OF 1964, HAS REVIEWED THE DRAWINGS AND SPECIFICATIONS AND CERTIFIES THAT THEY COMPLY WITH THE REQUIREMENTS OF THE ACT OF 1964.

JAMES E. HENSON, ARCHITECT

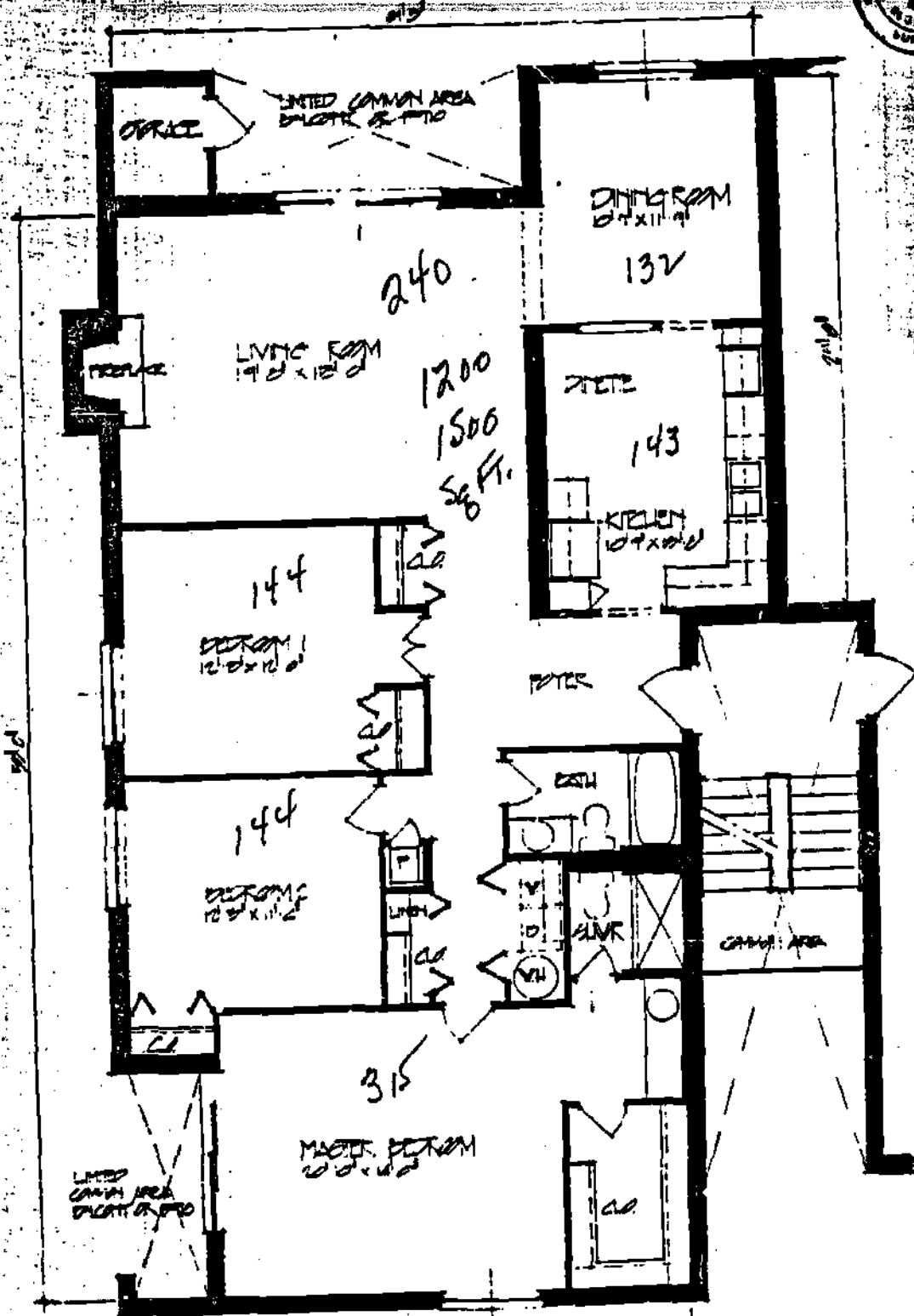
I hereby certify this drawing accurately shows the dwelling unit as  
 numbered and described in Indian Creek Garden Condominium  
 John H. Jude Engineering Company

D

by James L. Nordlund 1/15/62  
 267 1st St. NW, Atlanta, Ga.

THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO  
 INDIAN CREEK GARDEN CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING  
 AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE  
 CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLUND, ARCHITECT



- 75 669D07

I hereby certify this drawing accurately shows the building and  
 as intended and constructed in accordance with the plans.

John H. Jaffe Engineering Co., Inc.

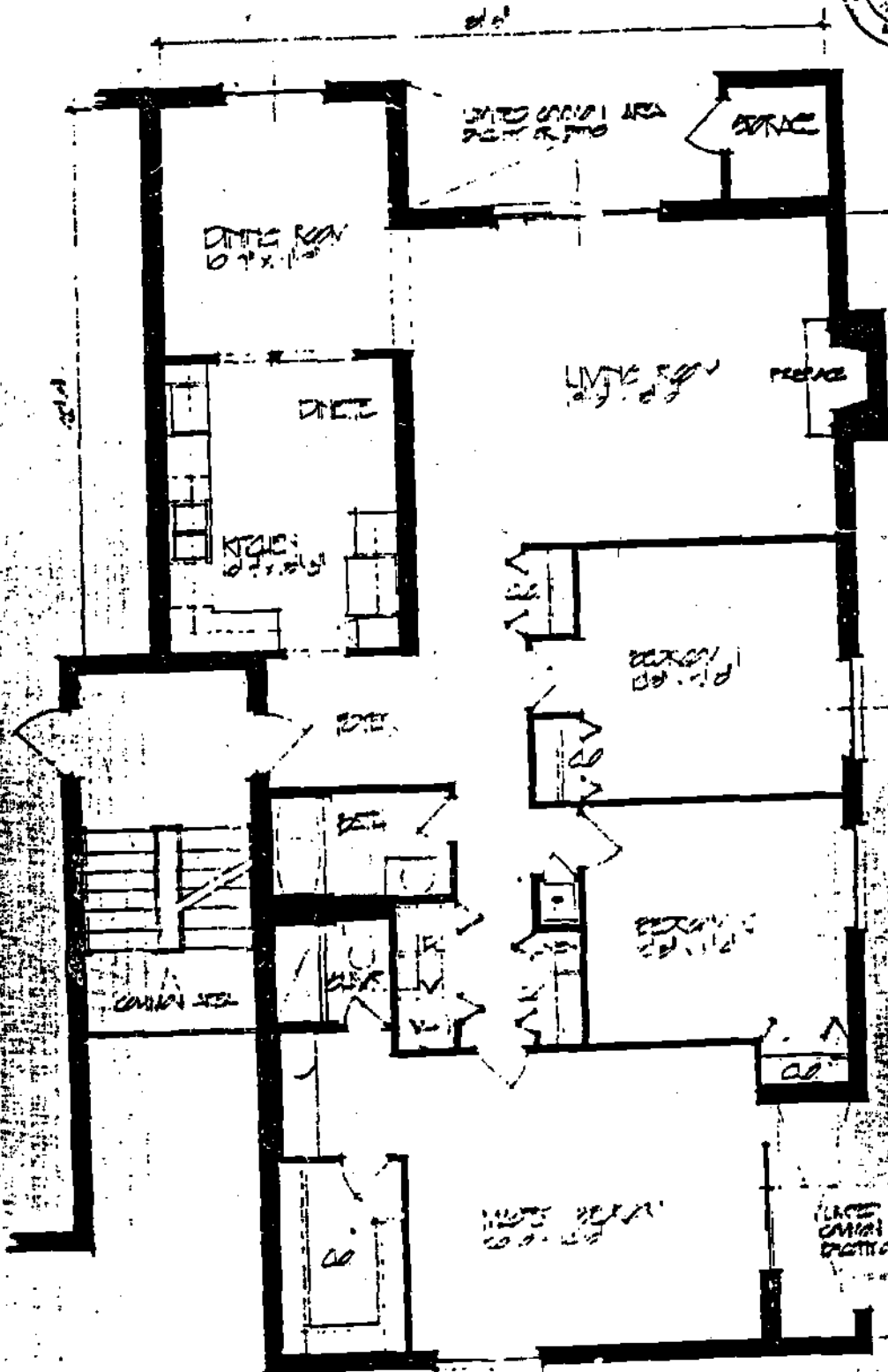
D

by James L. Nordloh, Architect



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO  
 NORTON GREEN CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING  
 AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE  
 CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLOH, ARCHITECT



76 669D08

I hereby certify this drawing accurately shows the building units as  
 numbered and constructed in. Indian Creek Condominium  
John H. Judd Engineering Company

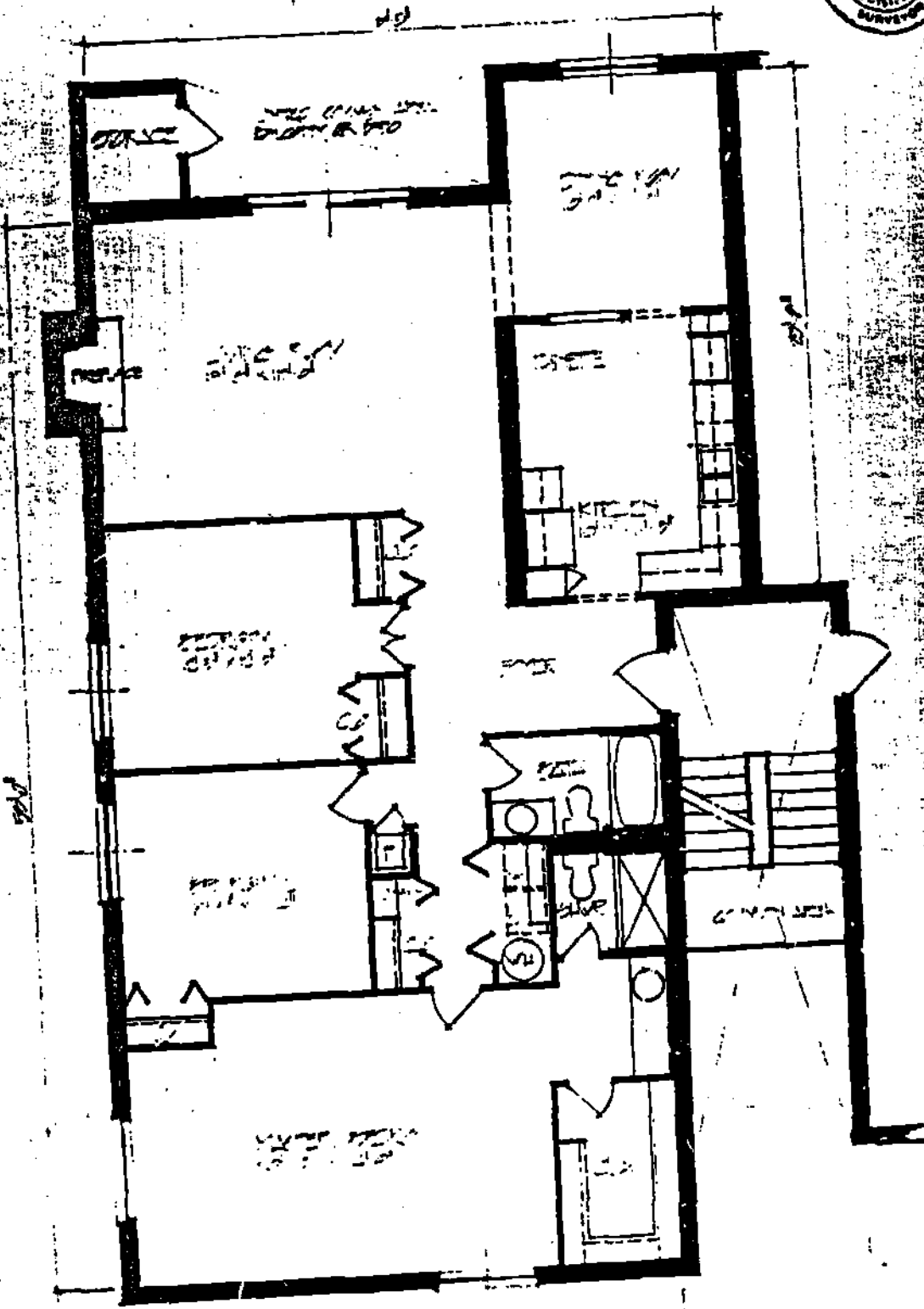
D

By John H. Judd, Registered Surveyor



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO  
 INDIAN CREEK OPEN CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING  
 AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AS THE  
 CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDRICH, ARCHITECT

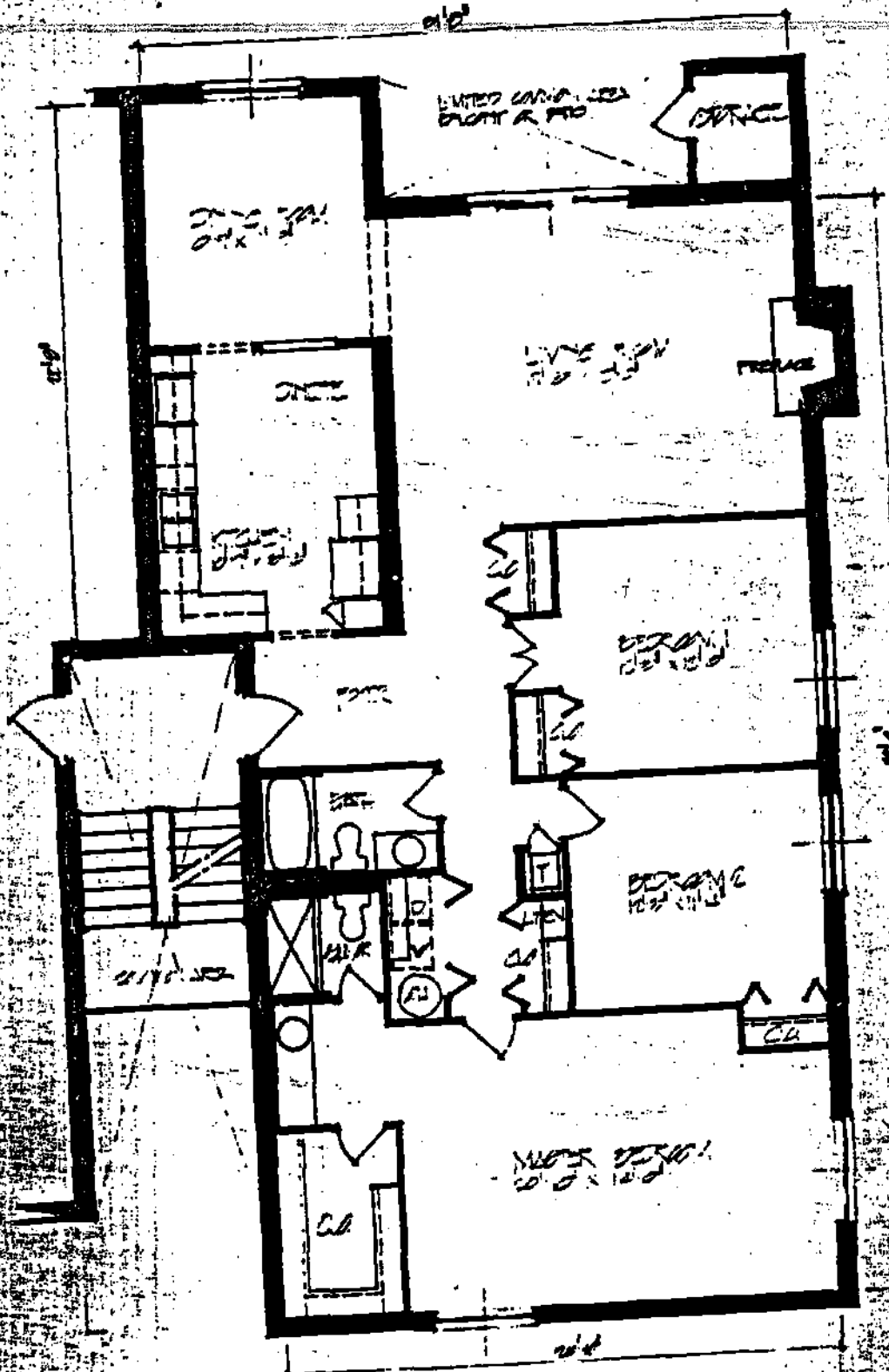


-76 669D09



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS DRAWING IS  
 A TRUE AND CORRECT REPRESENTATION OF THE CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING  
 AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS OF THE  
 CONDOMINIUM AS DIVIDED BY THE BUREAU.

JAMES L. NORDACH, ARCHITECT



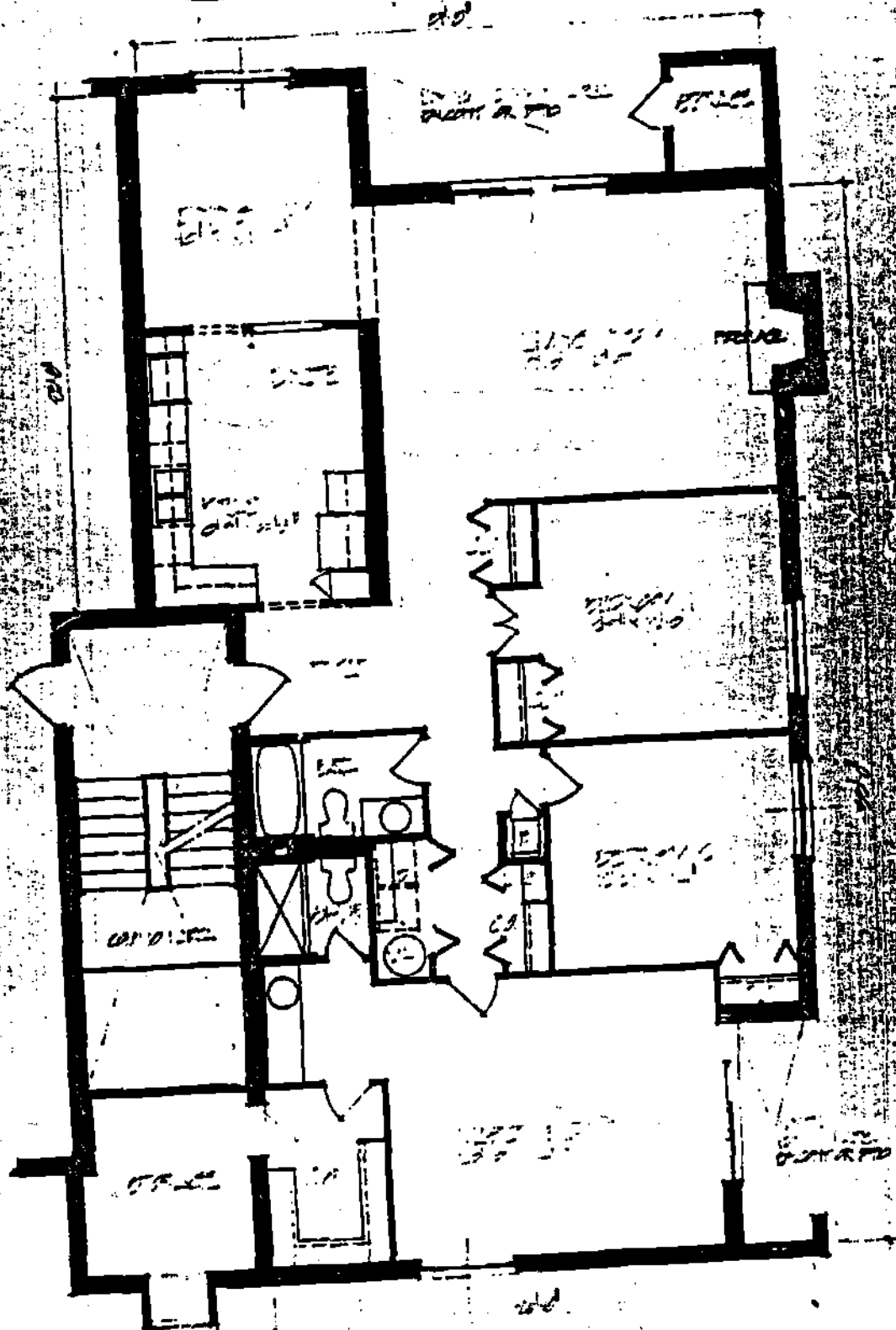
UNIT 101 - LIVING ROOM - 12'0" X 12'0" - 10'0" X 10'0" - 10'0" X 10'0" - 12'0" X 12'0" - 5'0" X 7'0" - CLO - STORAGE ROOM

I hereby certify this drawing accurately shows the building units as intended and constructed in Jackson Street Condominium Building, Jackson, Mississippi.

THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS DRAWING IS AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS IN THE CONDOMINIUM AS INTENDED BY THE ENGINEER.



JAMES L. NORDLUND, ARCHITECT



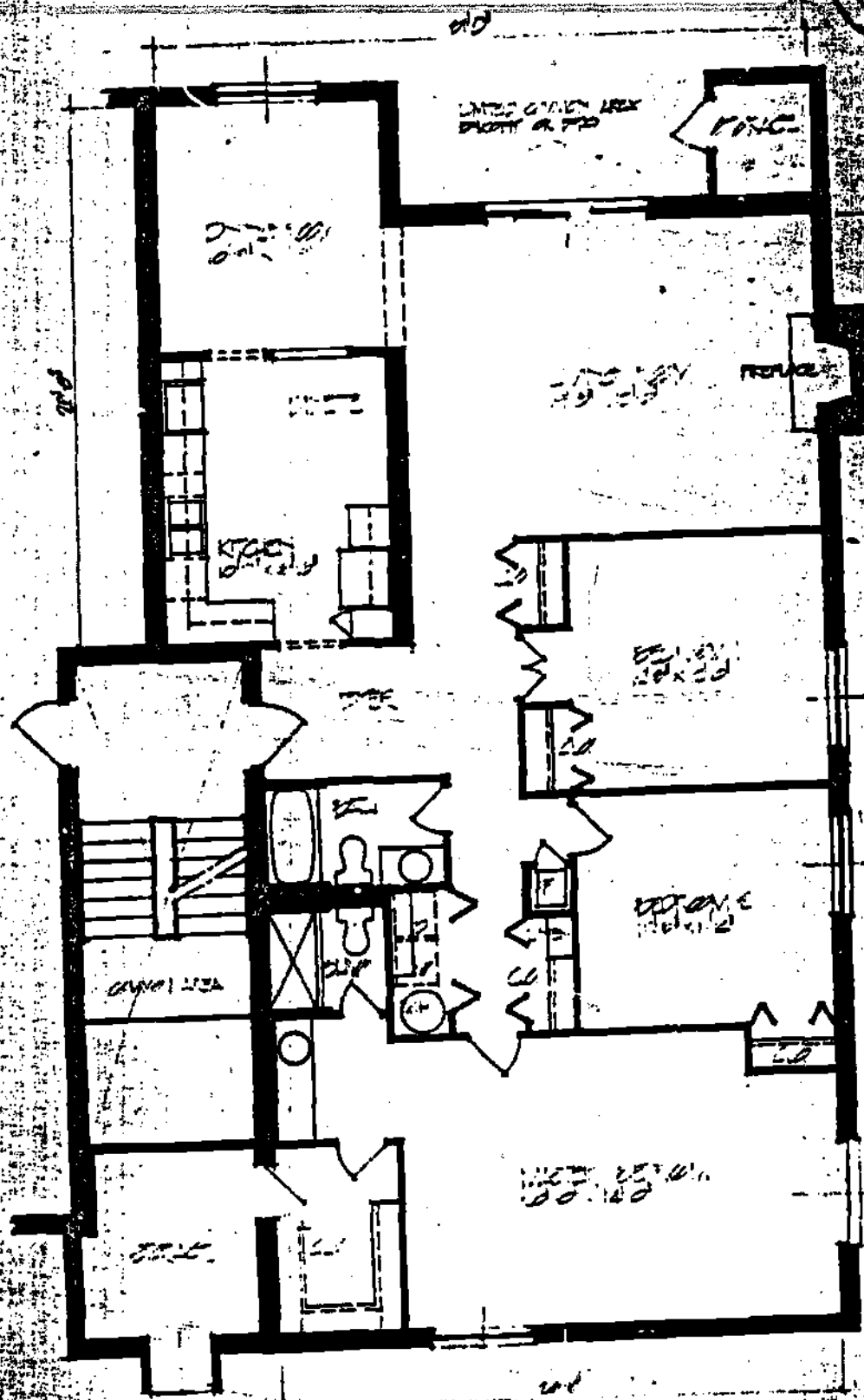
6 669D11

I hereby certify that the above described plans for building and construction in which the above named person or persons are interested have been prepared by me or under my direct supervision and that I am a duly licensed architect.



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS SUBMITTED TO HIM BY THE ARCHITECT AND GRAPHICALLY SHOWS THE PARTICULARS OF THE CONSTRUCTION AS INTENDED BY THE OWNER.

JAMES L. MORRISON, ARCHITECT



- 76 669D12



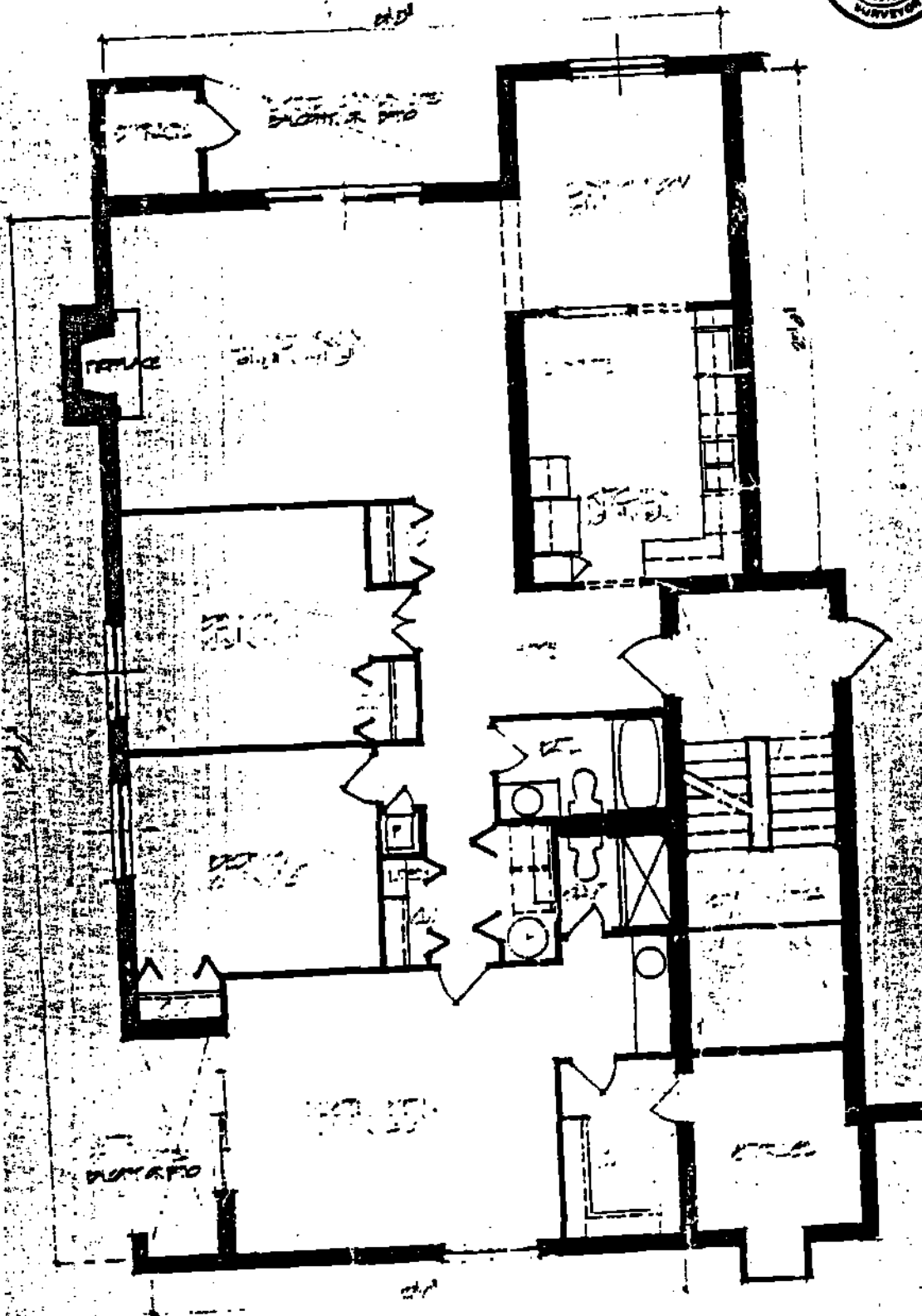
I hereby certify this drawing accurately shows the dwelling units as  
 numbered and constructed in Indian Creek Garden Condominium  
 John H. Judge Engineering Company

D

by *John H. Judge*  
 John H. Judge, Inc. Surveyors

THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO  
 INDIAN CREEK GARDEN CONDOMINIUM PLAND ACCURATELY SHOWS THE BUILDING  
 AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE  
 CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLICH, ARCHITECT



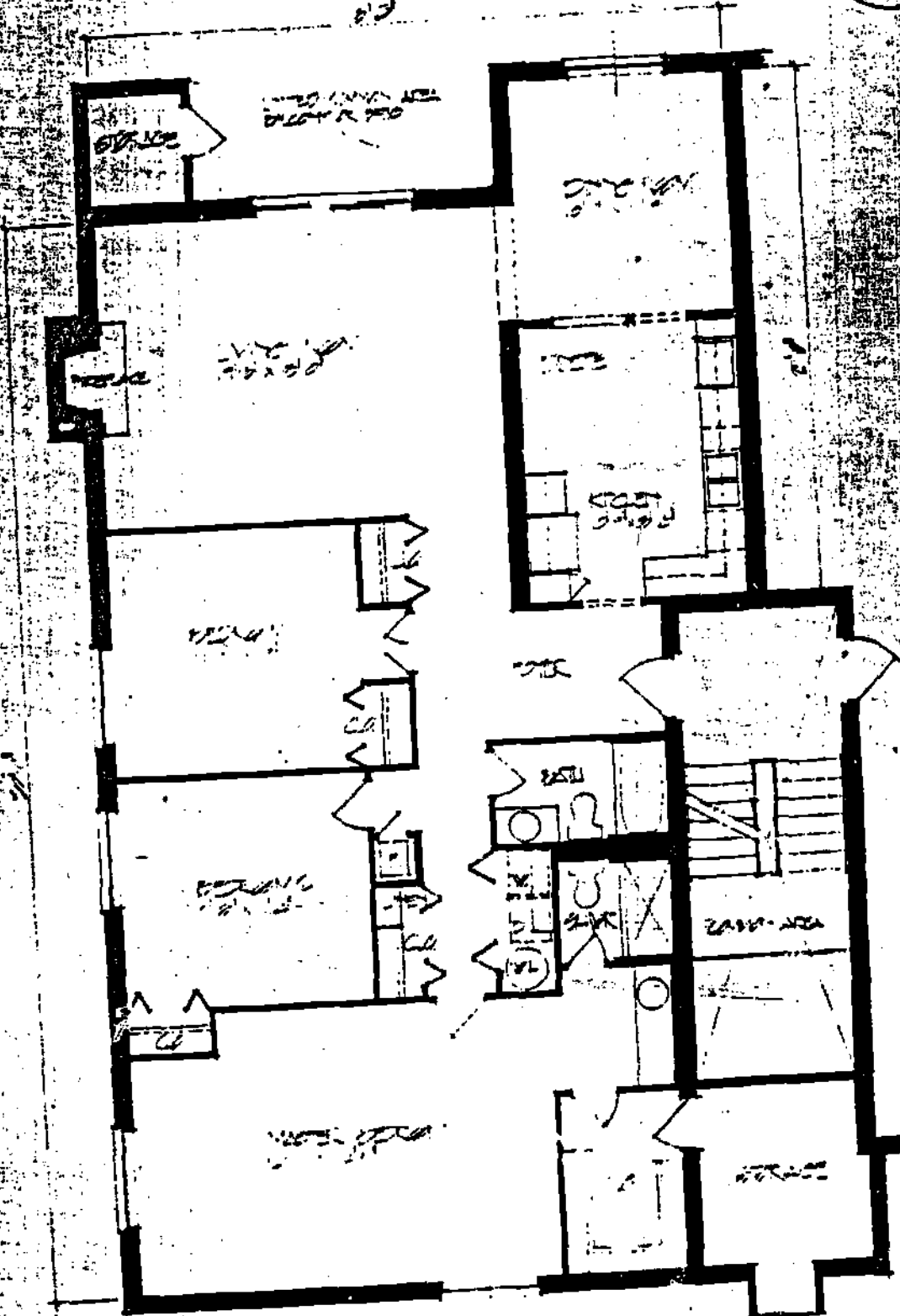
26 669E01

I hereby certify this drawing accurately shows the dwelling units as numbered and constructed in *North Creek Garden Condominium* *Unit 11* *Wedge Engineering Company*

AS SHOWN ON THE PLANS OF THE BUILDING

THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO NORTH CREEK GARDEN CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLOH, ARCHITECT

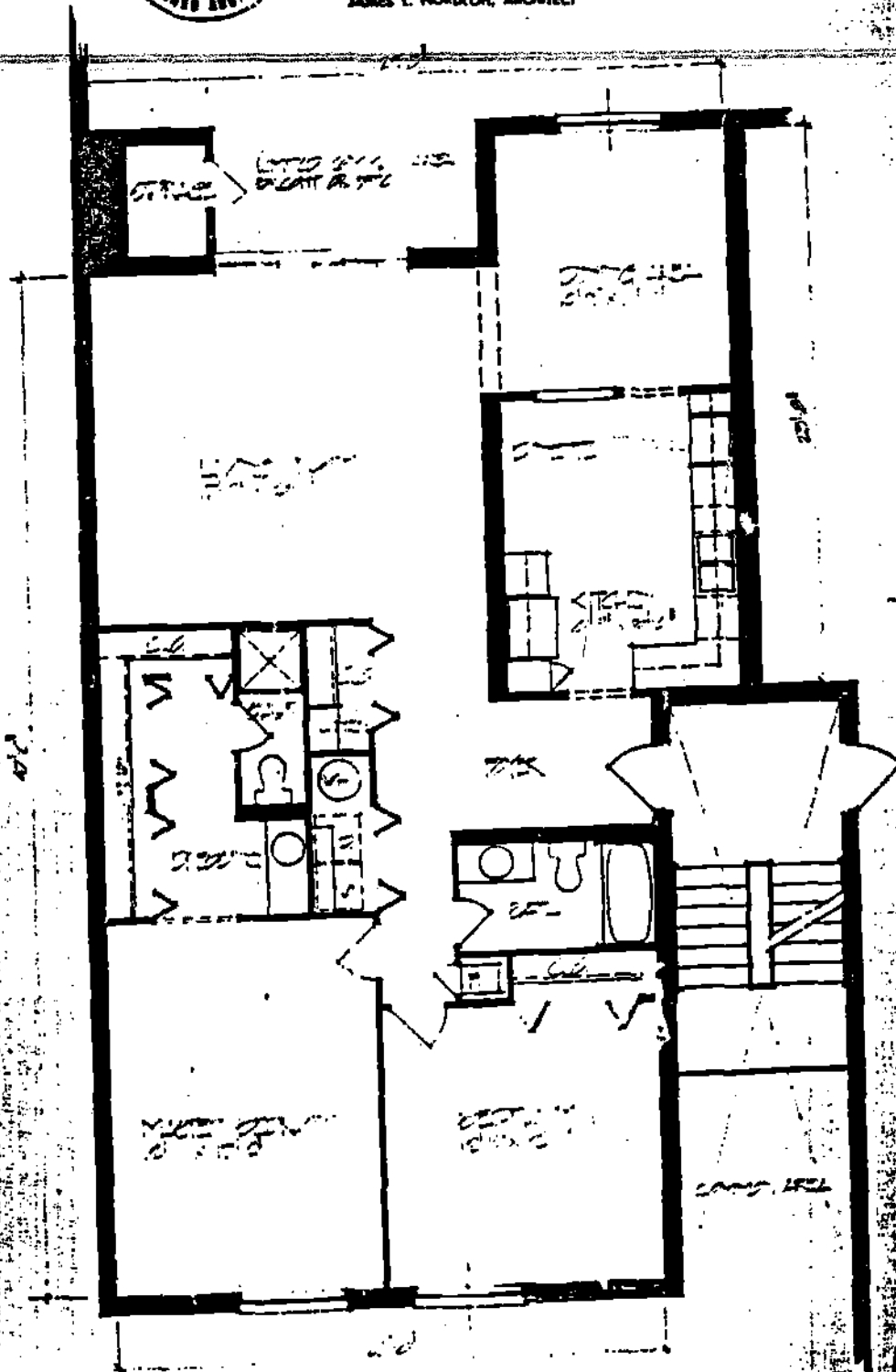


- 76 669E02



D  
THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO  
COPYRIGHT CONDOMINIUM PLING ACCURATELY SHOWS THE BUILDING  
AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AS THE  
CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLON, ARCHITECT

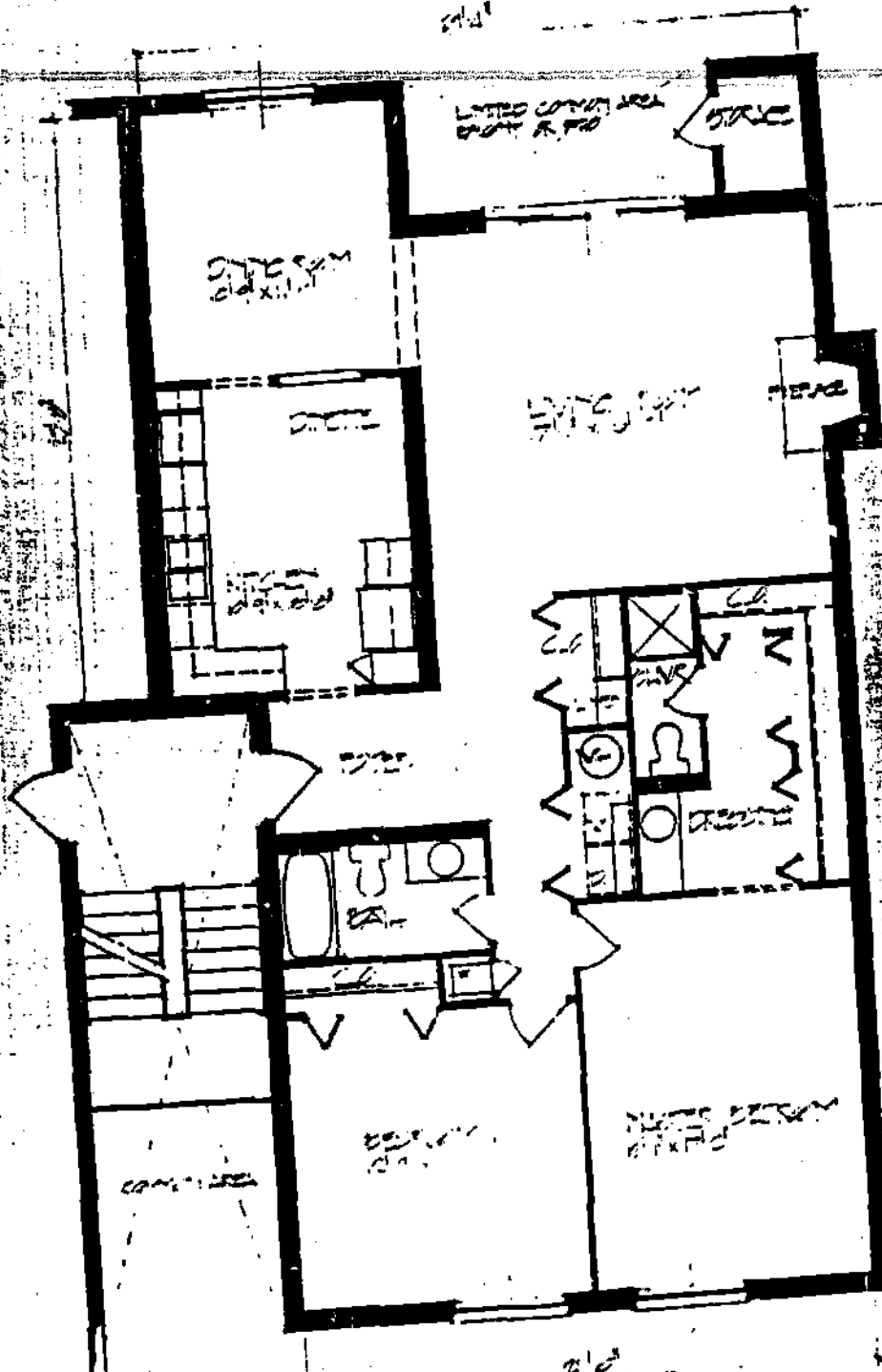


I hereby certify this drawing accurately shows the building unit as  
intended and constructed in Indian Creek Garden Condominium



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO CERTIFICATE OF CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AS THE CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLON, ARCHITECT



I hereby certify this drawing accurately shows the building units numbered and constructed in John W. Judge Condominium John W. Judge Engineering Company

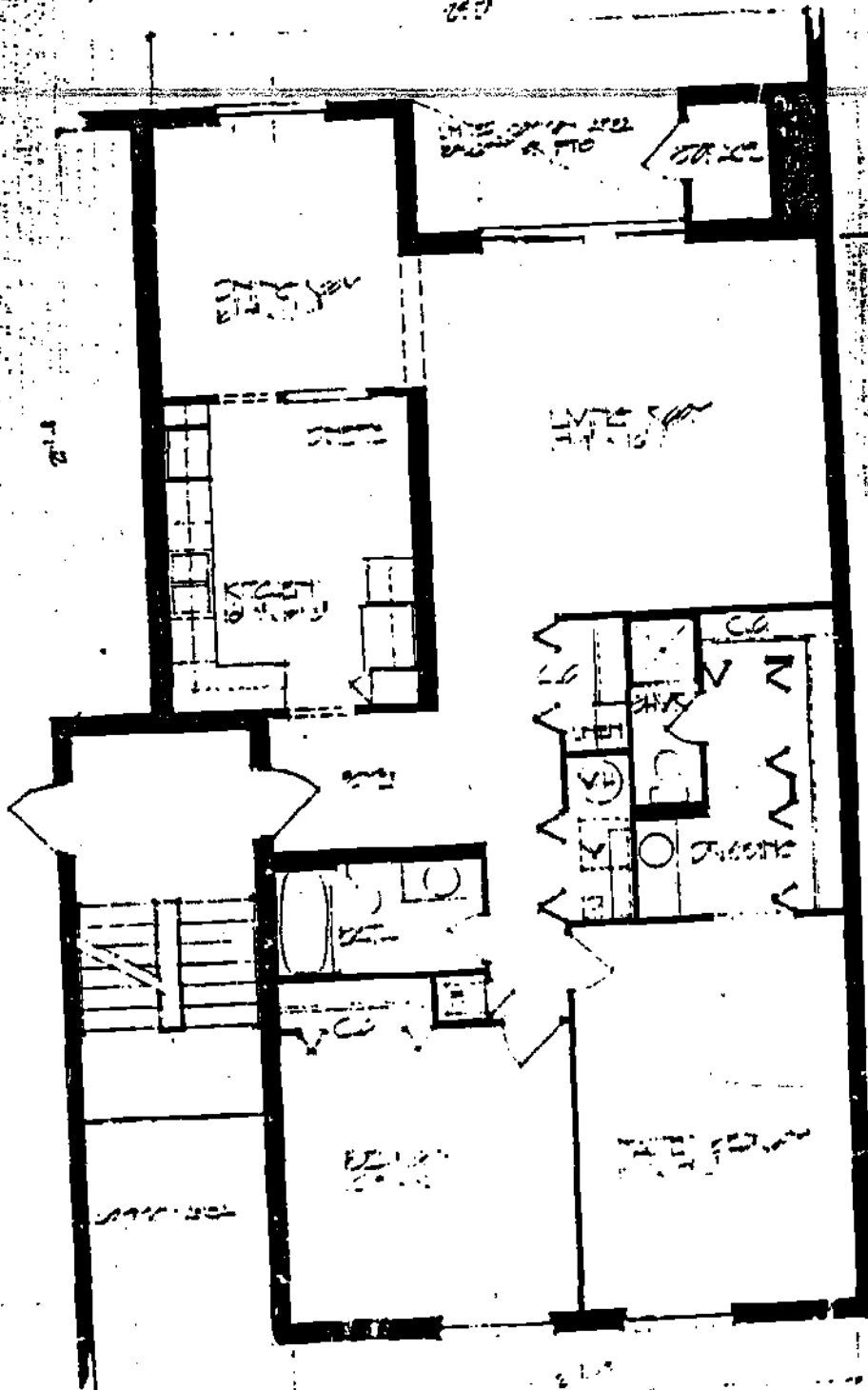
JOHN W. JUDGE ENGINEERING COMPANY

I hereby certify this drawing accurately shows the dwelling units as numbered and constructed in Indian Creek Garden Condominium.  
John H. Judge Engineering Company



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO THE CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLON, ARCHITECT

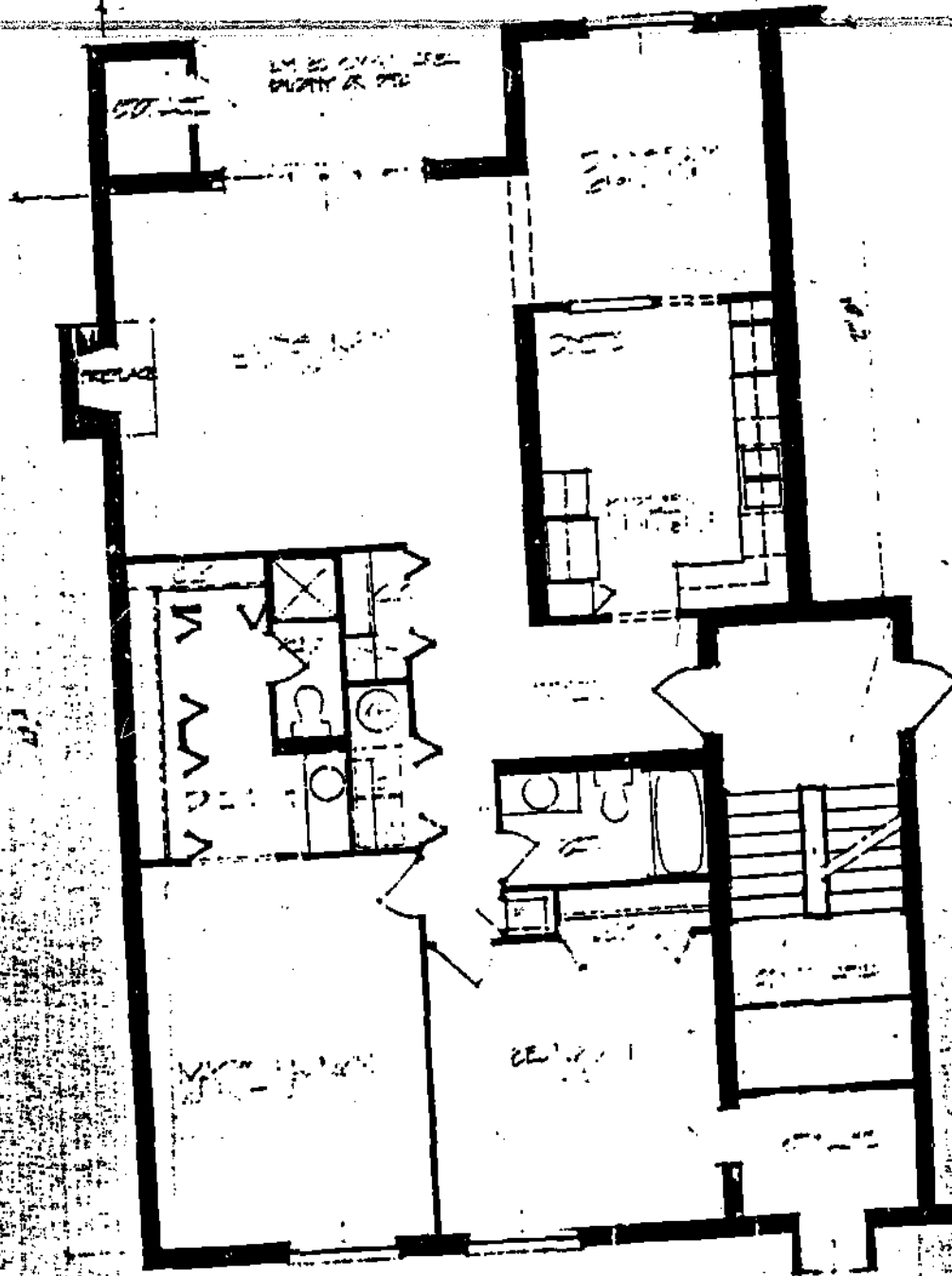


I hereby certify this drawing, separated, shows the dwelling units as numbered and constructed in the plan of the building.



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO THE CONDOMINIUM DECLARATION ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLON, ARCHITECT

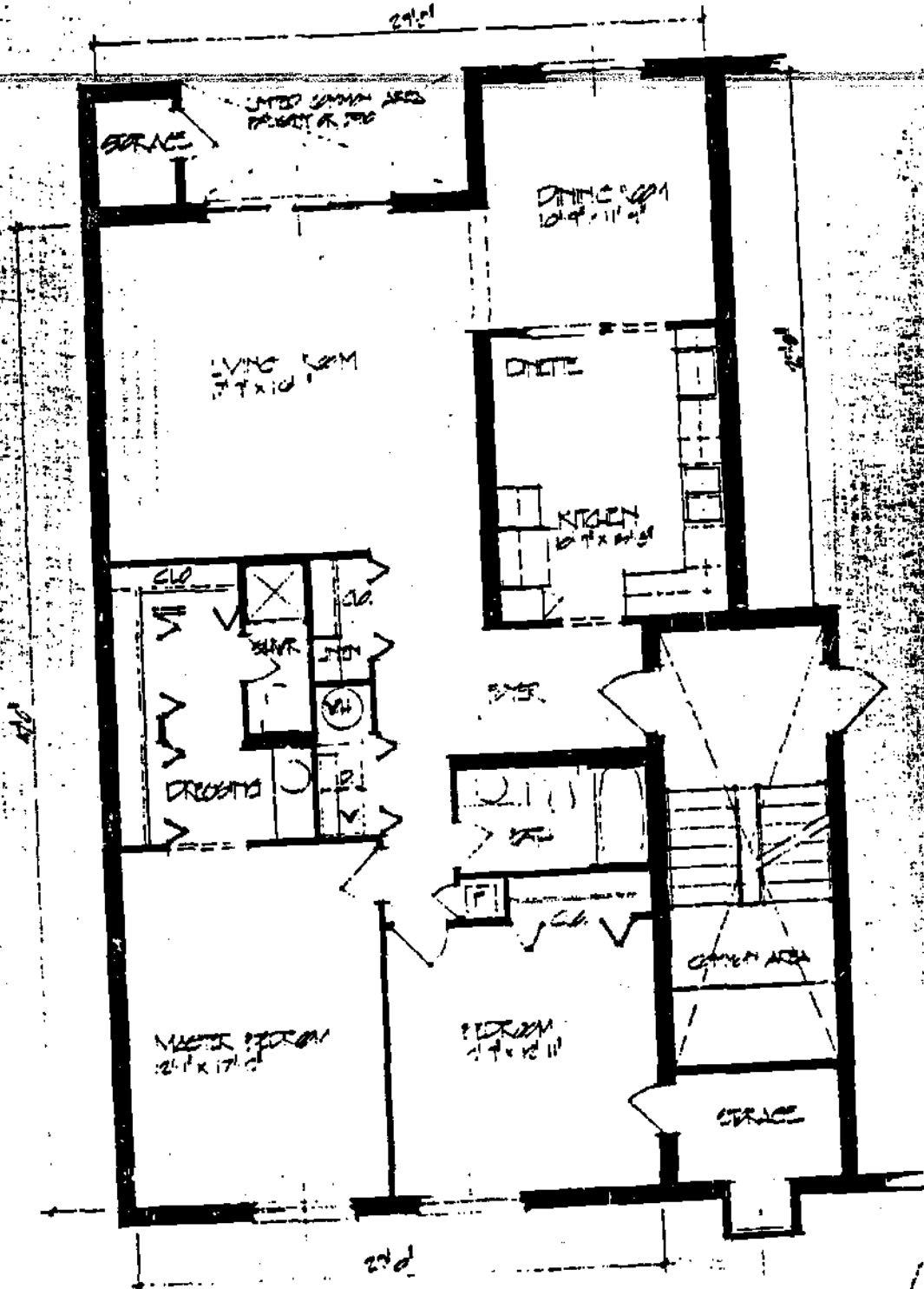


I hereby certify this drawing accurately shows the building units as numbered and described in the Condominium Declaration and Plan of Condominium prepared by the undersigned.



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS EXHIBIT TO THE CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AT THE CONDOMINIUM AS INTENDED BY THE EXHIBIT.

JAMES L. NORDLON, ARCHITECT



UNIT 'B1' - SEE UNIT 'A' - NO PREPARE

I hereby certify this drawing accurately shows the building as constructed and graphically shows the particulars at the condominium as intended by the exhibit.

John A. Judd Engineering Company





# EXHIBIT F

## INDIAN CREEK GARDEN CONDOMINIUM

### PERCENTAGE OF INTEREST IN THE COMMON AREAS AND FACILITIES

THE FIRST PHASE OF INDIAN CREEK GARDEN CONDOMINIUM CONSISTS OF 42 UNITS, THE CONDOMINIUM IS EXPANDABLE TO A TOTAL OF 156 UNITS AND THESE ADDITIONAL UNITS WILL BE ADDED IN PHASES. AS EACH PHASE IS ADDED THE PERCENTAGE OF INTEREST IN THE COMMON AREAS AND FACILITIES WILL BE ADJUSTED TO REFLECT THE PERCENTAGE OF INTEREST IN EACH UNIT TO THE ENTIRE COMMON AREAS AND FACILITIES THEN EXISTING IN THE CONDOMINIUM

BLDG. NO.	ADDRESS	UNIT NUMBER	LOCATION	PERCENTAGE
1	1100 Eagle Nest Court	1	Lower Left	2.207
1	1100 Eagle Nest Court	2	Lower Right	2.266
1	1100 Eagle Nest Court	3	Middle Left	2.266
1	1100 Eagle Nest Court	4	Middle Right	2.324
1	1100 Eagle Nest Court	5	Upper Left	2.324
1	1100 Eagle Nest Court	6	Upper Right	2.383
2	1105 Snowshoe Trail	7	Lower Left	2.557
2	1105 Snowshoe Trail	8	Lower Right	2.207
2	1105 Snowshoe Trail	9	Middle Left	2.616
2	1105 Snowshoe Trail	10	Middle Right	2.266
2	1105 Snowshoe Trail	11	Upper Left	2.614
2	1105 Snowshoe Trail	12	Upper Right	2.324
2	1109 Snowshoe Trail	13	Lower Left	2.266
2	1109 Snowshoe Trail	14	Lower Right	2.266
2	1109 Snowshoe Trail	15	Middle Left	2.324
2	1109 Snowshoe Trail	16	Middle Right	2.324
2	1109 Snowshoe Trail	17	Upper Left	2.383
2	1109 Snowshoe Trail	18	Upper Right	2.383
2	1113 Snowshoe Trail	19	Lower Left	2.207
2	1113 Snowshoe Trail	20	Lower Right	2.557
2	1113 Snowshoe Trail	21	Middle Left	2.266
2	1113 Snowshoe Trail	22	Middle Right	2.556
2	1113 Snowshoe Trail	23	Upper Left	2.324
2	1113 Snowshoe Trail	24	Upper Right	2.676
4	1600 Pinewood Lane	25	Lower Left	2.557
4	1600 Pinewood Lane	26	Lower Right	2.207
4	1600 Pinewood Lane	27	Middle Left	2.616
4	1600 Pinewood Lane	28	Middle Right	2.266
4	1600 Pinewood Lane	29	Upper Left	2.614
4	1600 Pinewood Lane	30	Upper Right	2.324
4	1602 Pinewood Lane	31	Lower Left	2.266
4	1602 Pinewood Lane	32	Lower Right	2.266
4	1602 Pinewood Lane	33	Middle Left	2.324
4	1602 Pinewood Lane	34	Middle Right	2.324
4	1602 Pinewood Lane	35	Upper Left	2.383
4	1602 Pinewood Lane	36	Upper Right	2.383
4	1606 Pinewood Lane	37	Lower Left	2.207
4	1606 Pinewood Lane	38	Lower Right	2.557
4	1606 Pinewood Lane	39	Middle Left	2.266
4	1606 Pinewood Lane	40	Middle Right	2.616
4	1606 Pinewood Lane	41	Upper Left	2.324
4	1606 Pinewood Lane	42	Upper Right	2.614



Allyson Roberts  
AFM

19194

FIRST AMENDMENT  
OF  
DECLARATION CREATING AND ESTABLISHING  
A PLAN OF CONDOMINIUM OWNERSHIP  
FOR  
INDIAN CREEK GARDEN CONDOMINIUMS  
TO ADD PHASE II THEREOF

JOE S. PEGG  
RECORDED  
SEP 6 12 03 PM '78  
MONTGOMERY CO. OHIO  
RECORDED  
4495

This Amendment to the Declaration is made this 23rd day of August, 1978, for the purpose of adding additional land to Indian Creek Garden Condominiums and to the provisions of Chapter 5311 of the Revised Code of Ohio.

R E C I T A L S

THAT WHEREAS, on December 29, 1976, the Declaration of Condominium Ownership of Indian Creek Garden Condominiums was duly recorded in Deed Record 76-669A01 et. seq. of the Deed Records of Montgomery County, Ohio; and

WHEREAS, as provided by the original Declaration, the Declarant, FRANK FURLONG, reserved to himself the right and power to add additional land and improvements to the Plan of Condominium Ownership; and

WHEREAS, the Declarant has completed two additional buildings on the land described in Exhibit A hereto containing 30 Units which will expand Indian Creek Garden Condominiums to 72 Units.

WHEREAS, the land described in Exhibit A is a part of the land described in the original Declaration to be added to the Plan of Condominium Ownership; and

WHEREAS, the residential Units to be added to said plan are comparable in appearance, design, and quality to the Units now subjected to the Declaration; and

THAT WHEREAS, said Declaration provides that in order to amend the Declaration for the purpose of adding additional land and Units to the Plan of Condominium Ownership, the Declarant may prepare, execute, and record an instrument in writing for those purposes, for and on behalf of all Unit Owners with or without the Unit Owners and their respective mortgagee's signature thereto and whether signed by each Unit Owner himself or executed by the Declarant under the power of attorney therein given.

Section 1. Declaration. The Declarant hereby submits the real property described in Exhibit A, attached hereto and made part hereof and the improvements made thereon to the provisions of Chapter 5311 of the Revised Code of Ohio and subject to the provisions of the Declaration dated December 9, 1976, and recorded in Deed Record 76-669A01 of the Deed Records of Montgomery County, Ohio.

Section 2. General Description of Buildings Added. There are TWO (2) buildings added to the Condominium. The buildings are 2 1/2 stories in height with garden-type units on each of the separate floors and of the same description as the buildings previously submitted. Building Number 5 contains EIGHTEEN (18) Units and Building Number 6 contains TWELVE (12) Units. There are FIVE (5) separate garage buildings related to Building 5 and TWO (2) separate garage buildings related to Building 6 to provide a single-car-garage area for each Unit.

11.9 47

FOR MAP SEE  
PLAT BOOK 106  
PAGE 27

78 493C07

Section 3. Locations of Buildings. The buildings that are being added are numbered as Buildings Number 5 and Number 6. They have access from Thunderbird Land, a private street, with further access over Indian Creek Boulevard to Indian Trail, a public road. Each Unit has a direct exit to permanent easements leading to public streets as are identified in the record plan(s) of Indian Creek Garden Condominiums.

Section 4. Description of Units. The THIRTY (30) Units being added to the plan are the same type of Units previously submitted.

Section 5. Common Areas and Facilities. The entire land and improvements thereon, not included within a unit, shall be Common Areas and Facilities, and all owners of Units shall have ownership therein as tenants in common.

Section 6. Limited Common Areas and Facilities. The Limited Common Areas and Facilities are the same as described in the original Declaration and as further shown in the exhibits to said Declaration and attached hereto.

Section 7. Percentage of Interest of Units. The interest of each Unit added is computed on the same basis that was used in computing the percentage of interest in the Common Area and Facilities in the original Declaration for the Units therein submitted. Exhibit D hereto uniformly reallocates the interest of each Unit as to the Common Areas and Facilities existing after this addition to the Condominium.

Section 8. Incorporation of Original Declaration and Exhibits. The entire Declaration, By-Laws, and other exhibits recorded in Deed Record 76-669A01 thru 76-670B07 of the Deed Records of Montgomery County, Ohio, are incorporated herein by reference as if fully rewritten herein and shall have full application and effect on the property herein described as well as the property therein described, except and save those modifications contained herein as are necessary to integrate the additional land and improvements into the Condominium Plan of Indian Creek Garden Condominiums.

Section 9. Effective Date. The property herein described shall be deemed to have been submitted to the Ohio Condominium Act when this Amendment and the attached exhibits have been recorded in the Office of the Recorder of Montgomery County, Ohio.

IN WITNESS WHEREOF, the Declarant, FRANK FURLONG, for himself as owner of the within described real estate and on behalf of all of the Unit Owners, as provided in Section 15, of the original Declaration and as attorney in fact for all Unit Owners for the purpose of signing and acknowledging this Amendment to the Declaration, does hereby set his hand this 23 day of August, 1978.

IN WITNESS WHEREOF:

Karen Z. Whitman

Frank Furlong  
Frank Furlong

Aileen J. Furlong

Aileen J. Furlong  
Aileen J. Furlong

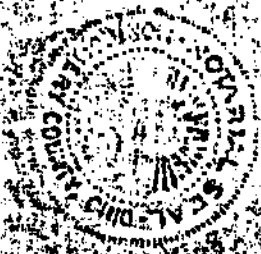
STATE OF OHIO

COUNTY OF MONTGOMERY

SS:

Before me, a Notary Public in and for said County and State, personally appeared the above named FRANK FURLONG AND AILEEN J. FURLONG, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 23rd day of August, 1978.



Bill W. Adams  
Notary Public

NOTARY PUBLIC STATE OF OHIO  
JULY 1978

This instrument prepared by:  
Benjamin F. Allbery, Attorney  
1200 American Building  
Dayton, Ohio 45402  
513/228-7183

INDEX TO EXHIBITS

Exhibit A

Elevation drawing of Building No. 5  
Elevation drawing of Building No. 6

Exhibit B

Floor Plan for Building No. 5  
Floor Plan for Building No. 6

Exhibit C

Unit drawing for Units 43 and 45  
Unit drawing for Units 44, 46, 48, 62, 64, and 45  
Unit drawing for Units 47  
Unit drawing for Units 49 and 51  
Unit drawing for Units 50, 52, and 54  
Unit drawing for Unit 53  
Unit drawing for Units 55, 57, 59, 67, 69, and 71  
Unit drawing for Units 56 and 58  
Unit drawing for Unit 60  
Unit drawing for Units 61 and 63  
Unit drawing for Unit 65  
Unit drawing for Units 68 and 70  
Unit drawing for Unit 72

Exhibit D

Legal Description of land added

Exhibit E

Legal Description of land after the addition

Exhibit F

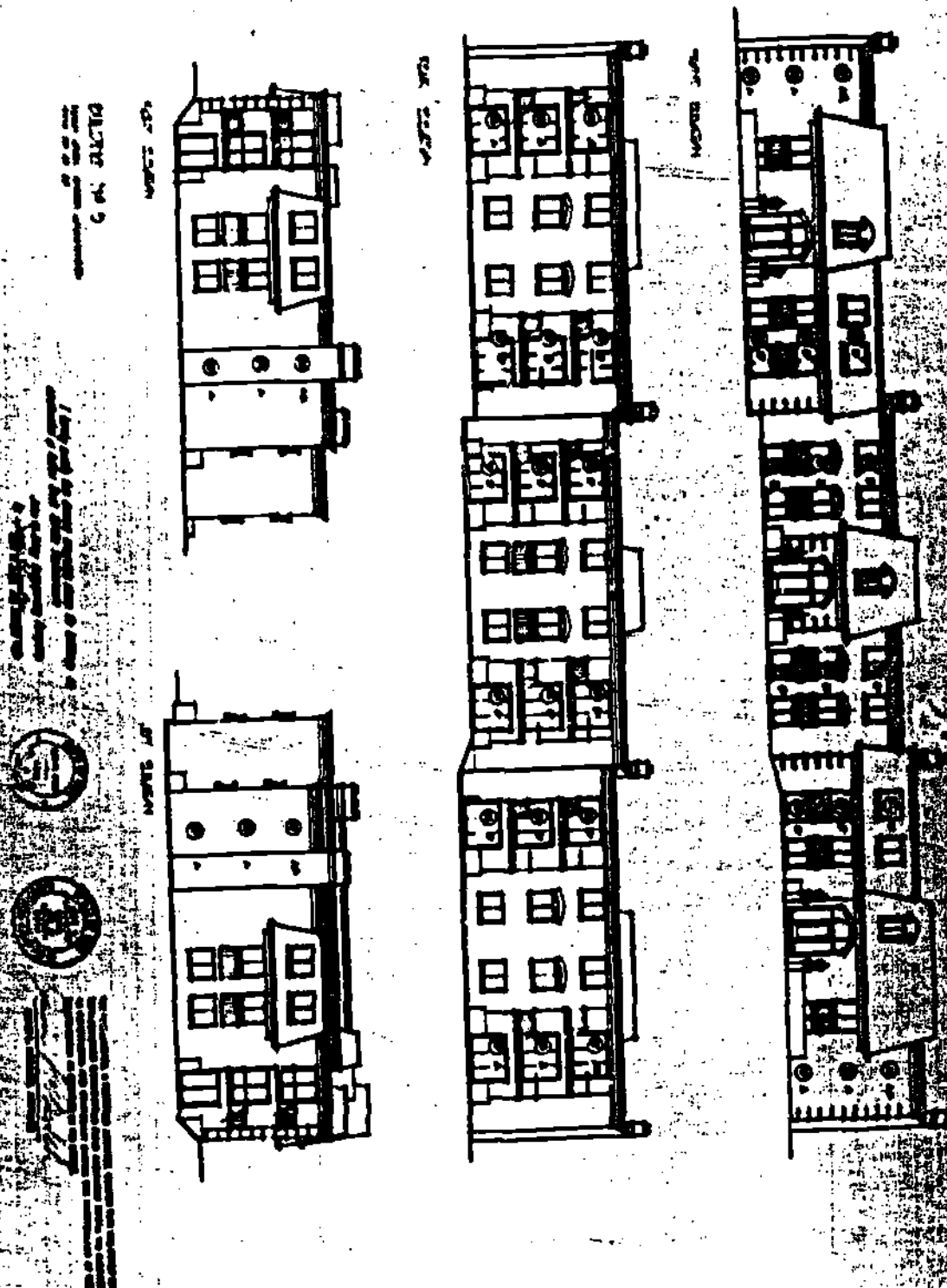
Percentage of Interest in the Common Areas  
and Facilities

Exhibit G

Consent of Mortgagees

Exhibit H

Condominium Record Plan



78 493C11

**Next Section**



**THE**



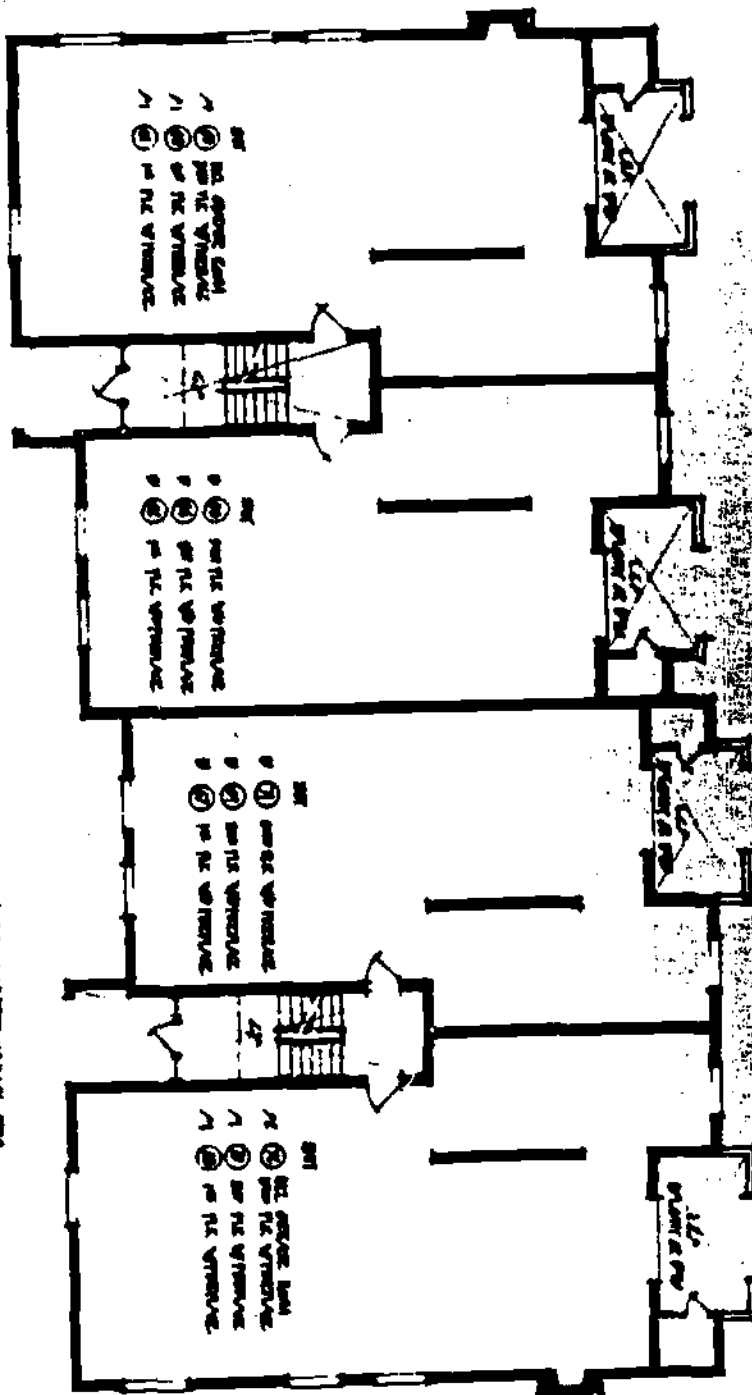


ELECTRIC INC. 5  
 10000 10th Avenue  
 NEW YORK 26, N.Y.

1. I am not a member of the Communist Party of the United States of America.

五、

*[Handwritten signature]*



BUILDING No. 6  
 100-1000 00000 00000000  
 0000 00-70



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFY THAT I HAVE  
 BEEN EMPLOYED BY THE UNITED STATES GOVERNMENT IN THE  
 DESIGN AND CONSTRUCTION OF THE BUILDING SHOWN ON THE  
 DRAWING AND DRAWINGS SHOWN THE PARTICULARS OF THE  
 CONSTRUCTION AS ORDERED BY THE BUREAU.

*James L. McMillan*  
 JAMES L. McMillan, ARCHITECT

I hereby certify that every copy of this drawing and of  
 the specifications and contract documents has been  
 furnished to the architect of the building shown on the  
 drawing and drawings shown the particulars of the  
 construction as ordered by the Bureau.

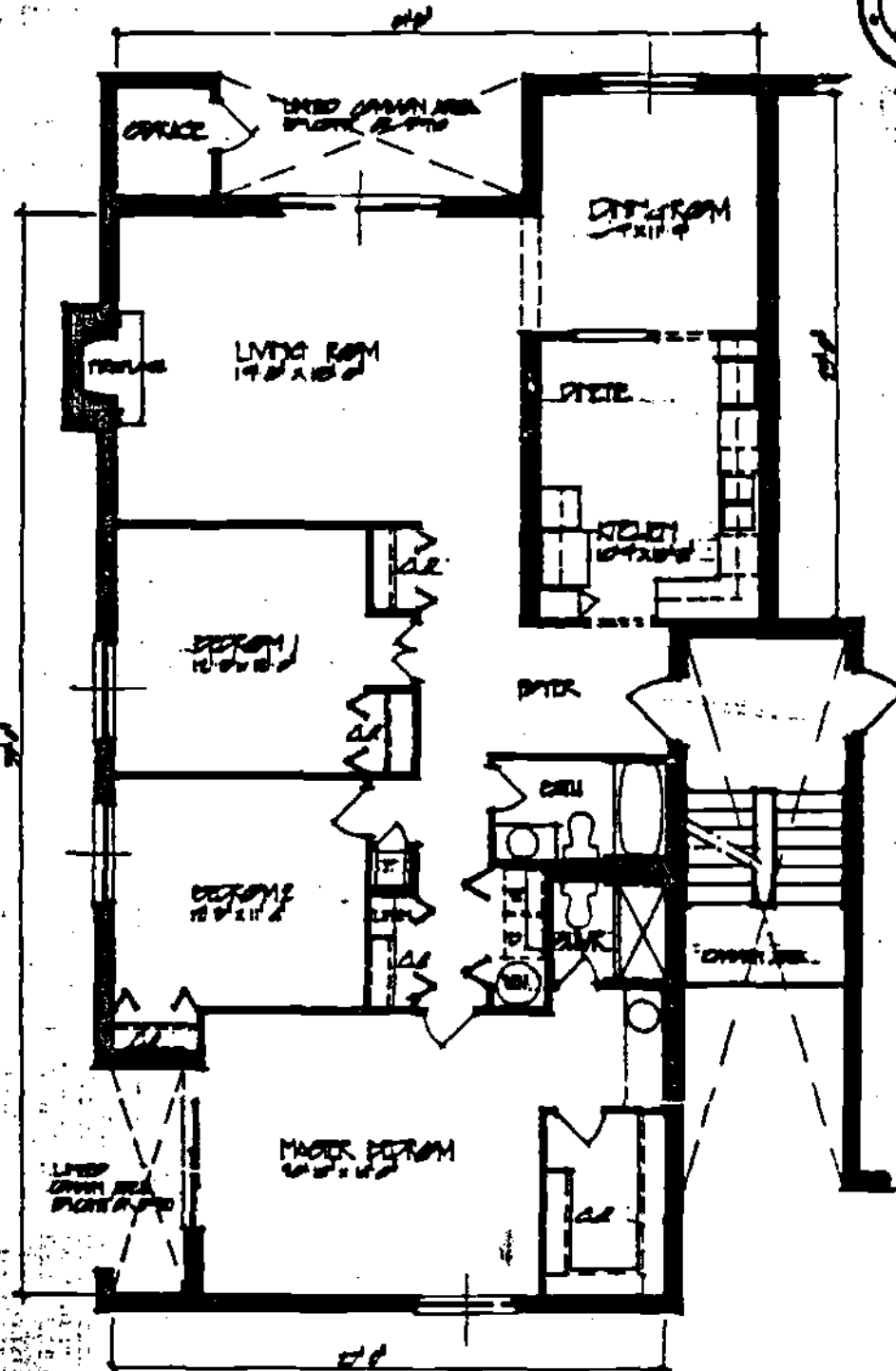
*James L. McMillan*  
 JAMES L. McMillan, ARCHITECT

EXHIBIT B

10/10/1951



James P. Duff  
JAMES P. DUFF, DIRECTOR



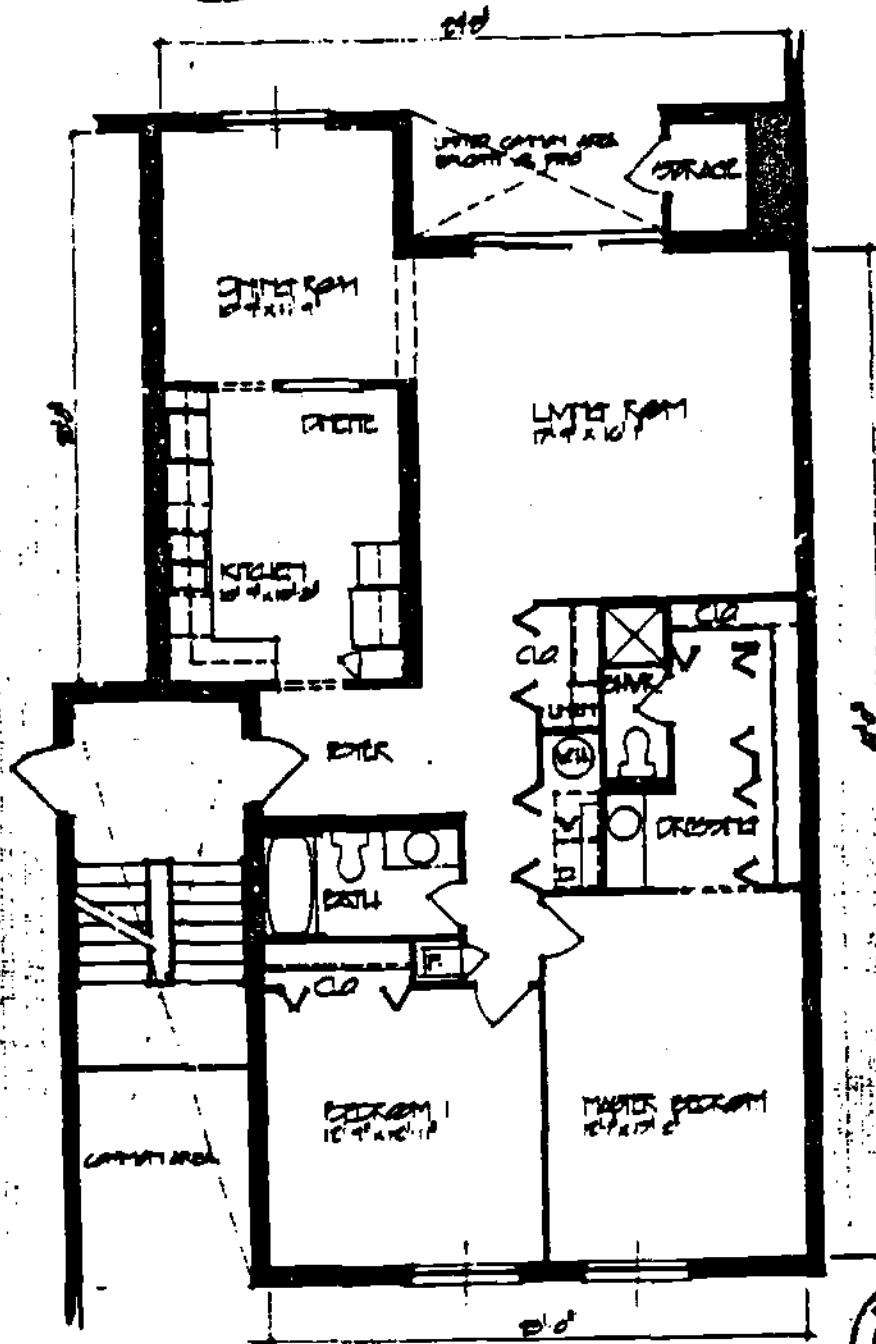
UNIT 'A' - RIGHT ENTRY: VITRULAC & HYPER DECOM COLONY  
UTD ② ②

- 78 493 D03 -



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS PLAN TO DEVELOP A UNIT CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS OF THE CONDOMINIUM AS DIVIDED BY THE OWNER.

*James L. Hordner*  
JAMES L. HORDER, ARCHITECT



UNIT 'D' - LEFT ENTRY - V/O FIREPLACE  
UNIT (M) (M) (M) (M) (M) (M)



I hereby certify the drawing accurately shows the building unit as numbered and described in Indian Creek Condominium Association, Inc. & its Successors.

*James L. Hordner*

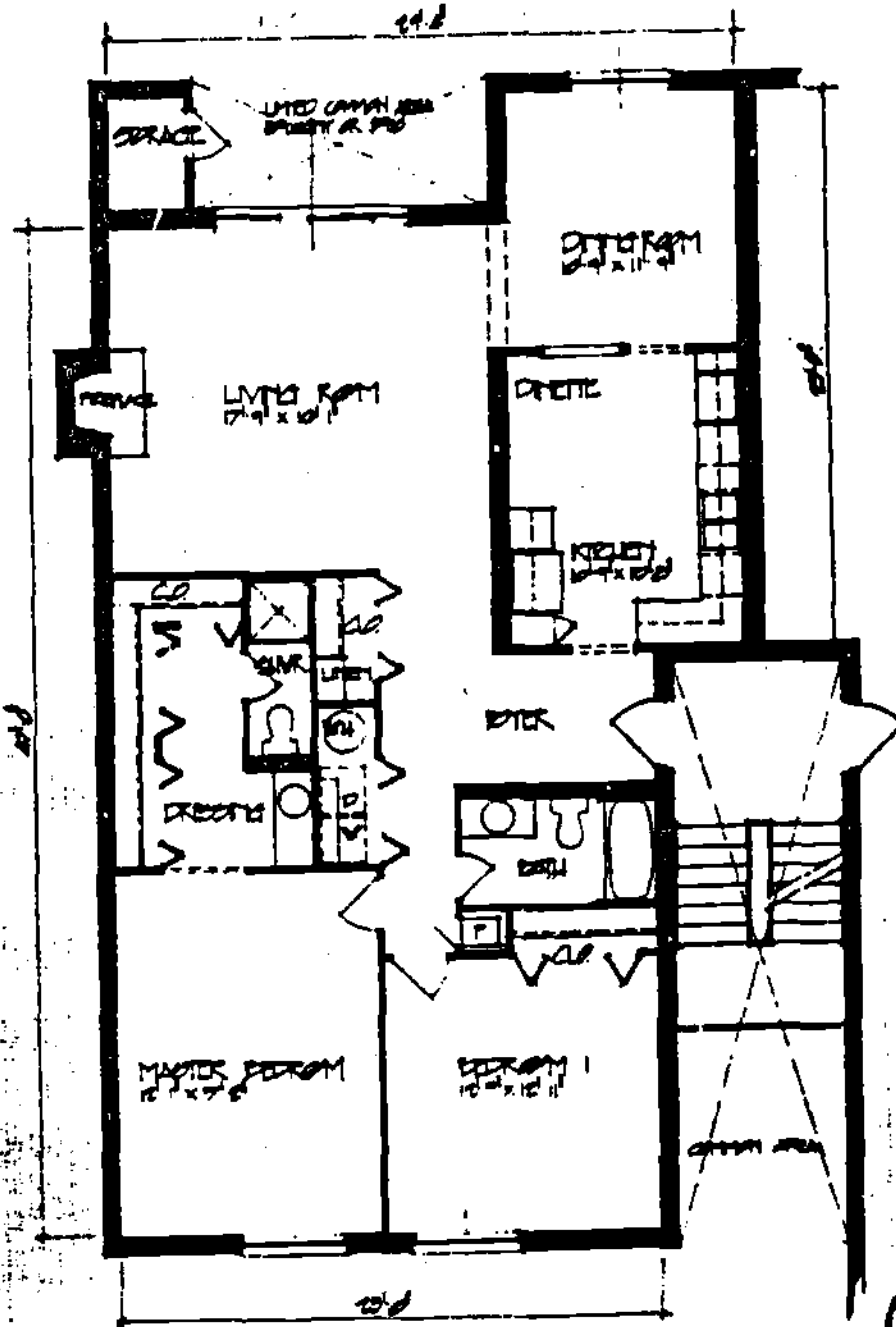
78 493D04

78 493 D05



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THIS PLAN TO DEVELOP CONDOMINIUM PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTITIONING AS THE CONDOMINIUM AS SHOWN BY THE SEALS.

*James L. Nordman*  
JAMES L. NORDMAN, ARCHITECT



UNIT 1-B = RIGHT ENTRY = V/ REFRIG  
LIVE (1) (2)



I hereby certify this drawing accurately shows the building and is submitted and recorded in Public Office, County of Cuyahoga, Ohio.

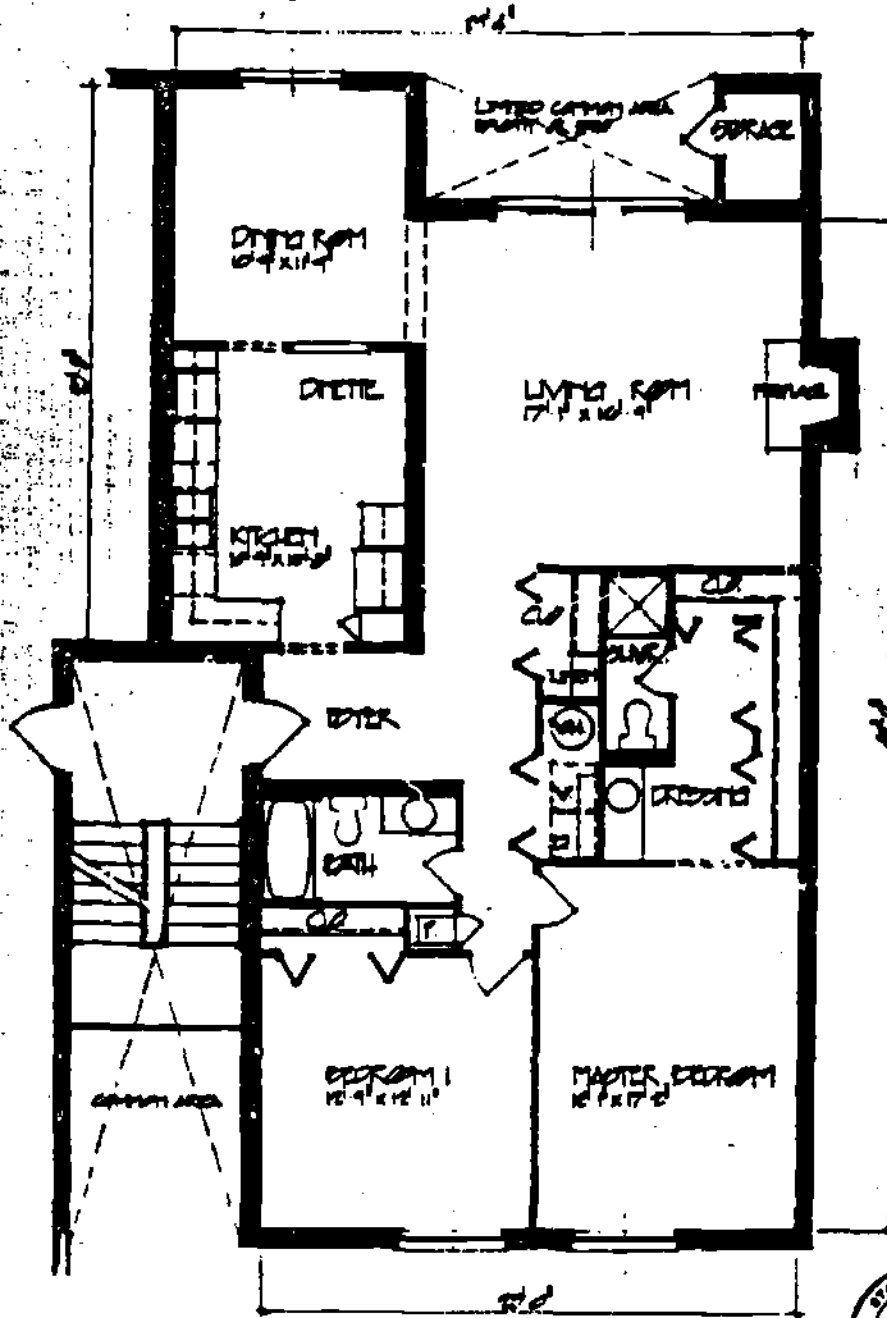
*John H. Jager*  
John H. Jager Engineering Company

78 493D06



WE HEREBY CERTIFY, A REGISTERED ARCHITECT, THAT THE SEET TO BE PLACED FIRST CONCERNING PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND CORRECTLY SHOWS THE PARTICULARS AT THE CONSTRUCTION AS ORDERED BY THE OWNER.

*James L. McNamee*  
JAMES L. MCNAMEE, ARCHITECT



UNIT 10 - LEFT ENTRY - V. FIREPLACE  
UNIT 10 (10) (10)



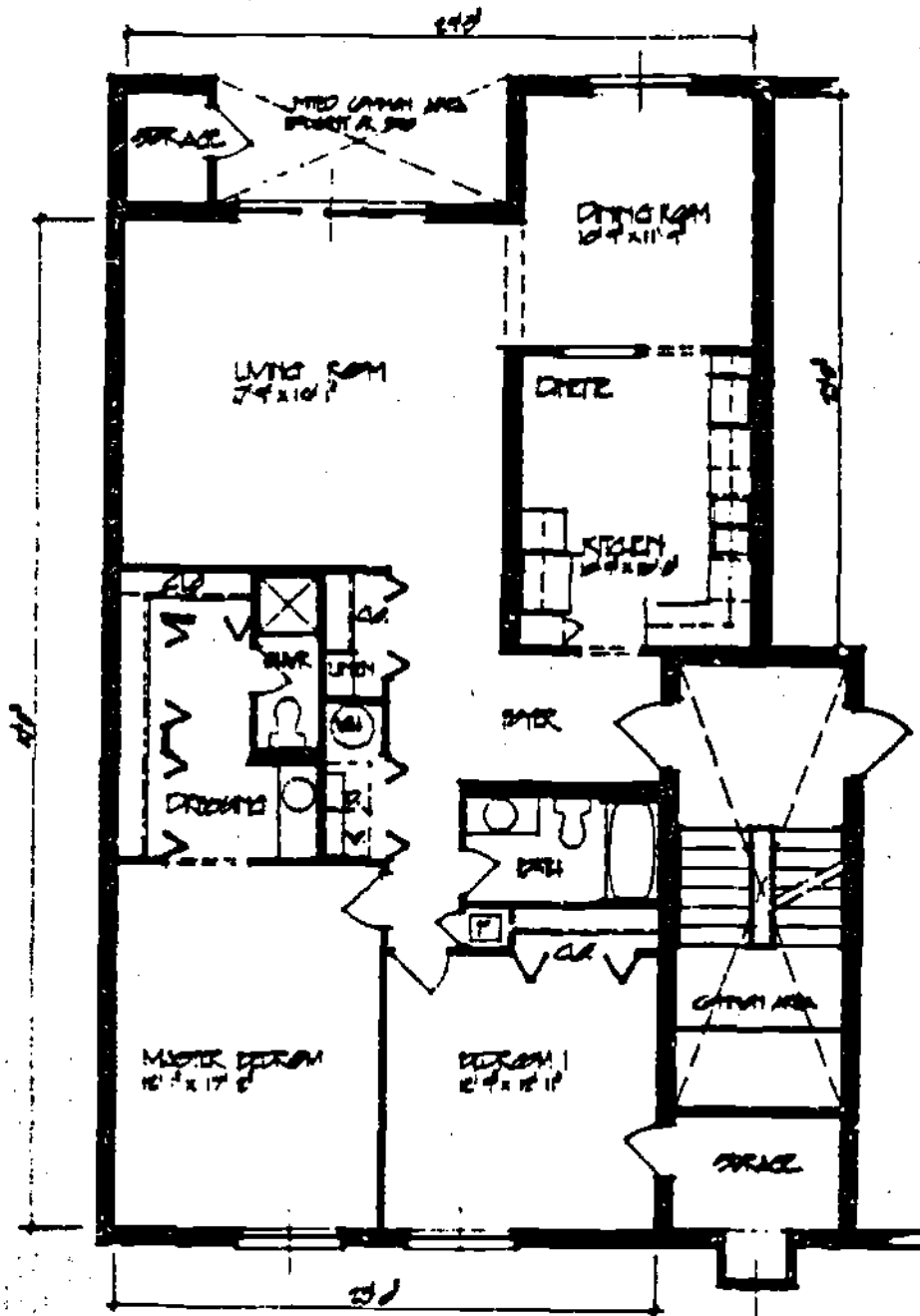
I hereby certify the drawing accurately shows the building as to  
numbered and described in Section One, Section (Construction)  
John H. Judd Engineering Company  
*John H. Judd*  
John H. Judd, Inc., Engineer

- 78 493D07 -



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THE EXISTING TO FORTHCOMING CONSTRUCTION PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS OF THE CONSTRUCTION AS REQUIRED BY THE CODES.

*James F. Fiedler*  
JAMES L. FIEDLER, ARCHITECT



UNIT 'D1' - RIGHT ENTRY - STORAGE ROOM - W.C. PRELACE

I hereby certify the drawing accurately shows the building units as approved and constructed in accordance with the Ohio Building Code.  
John H. Judge Engineering Company  
Cleveland, Ohio  
10-11-30



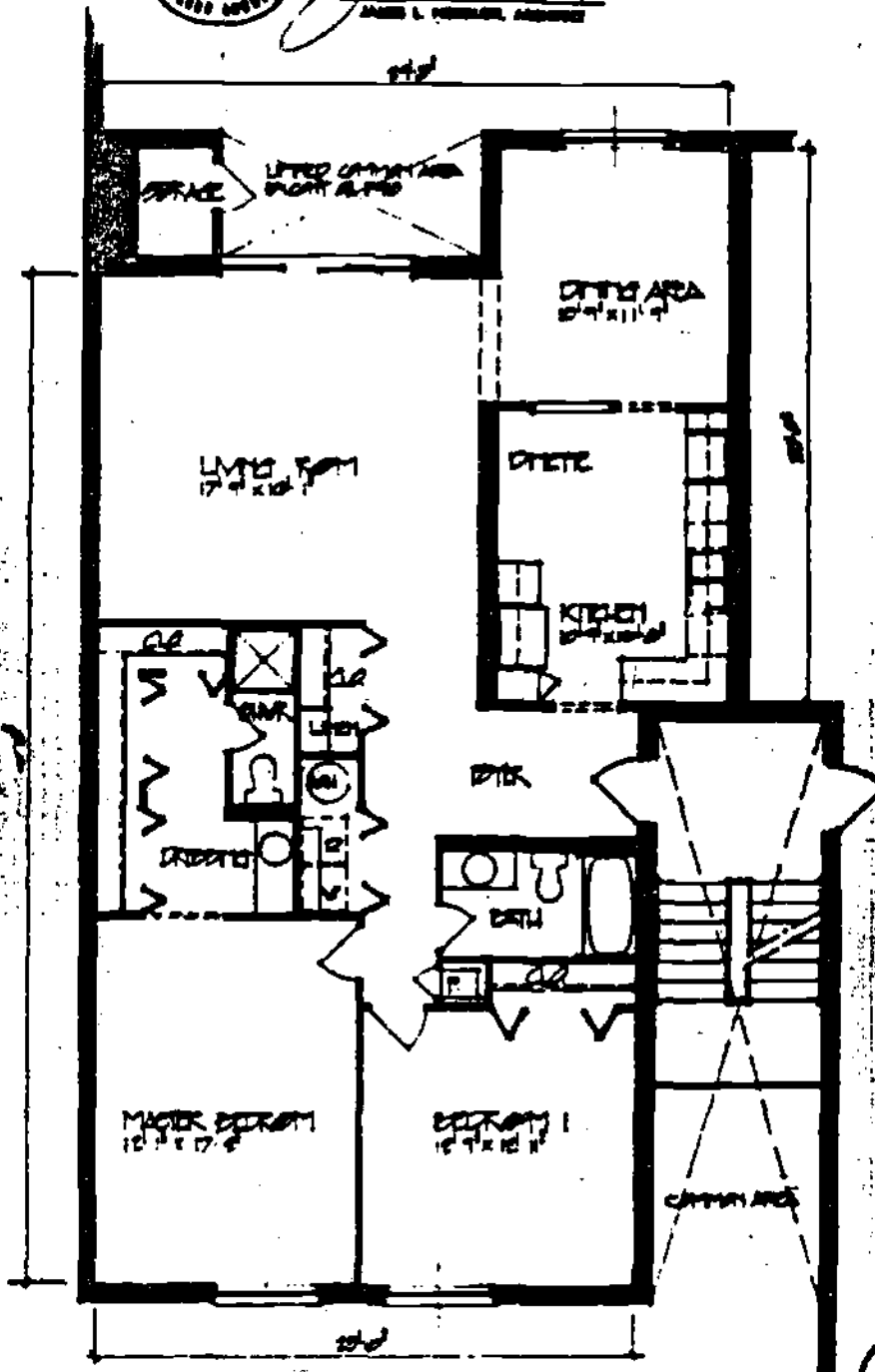
78 493D08





THE ENGINEER, A LICENSED ARCHITECT, CERTIFIES THAT THIS SET OF  
 DRAWINGS PREPARED FROM ACCURATELY SHOWS THE BUILDING  
 TO BE CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AS THE  
 REQUIREMENTS AS ORDERED BY THE OWNER.

*James P. Mulholland*  
 JAMES L. MULHOLLAND, ARCHITECT



UNIT 1 OF 1 - RIGHT ENTRY - NO FIREPLACE  
 STD 1 2 3 4 5 6 7 8 9 10 11

I hereby certify the drawings accurately show the building with all  
 materials and dimensions as shown on the plans.  
 JAMES L. MULHOLLAND, ARCHITECT  
 100 N. 10th St., Columbus, Ohio 43211



I hereby certify that every room and  
 in building and structure is shown and shown

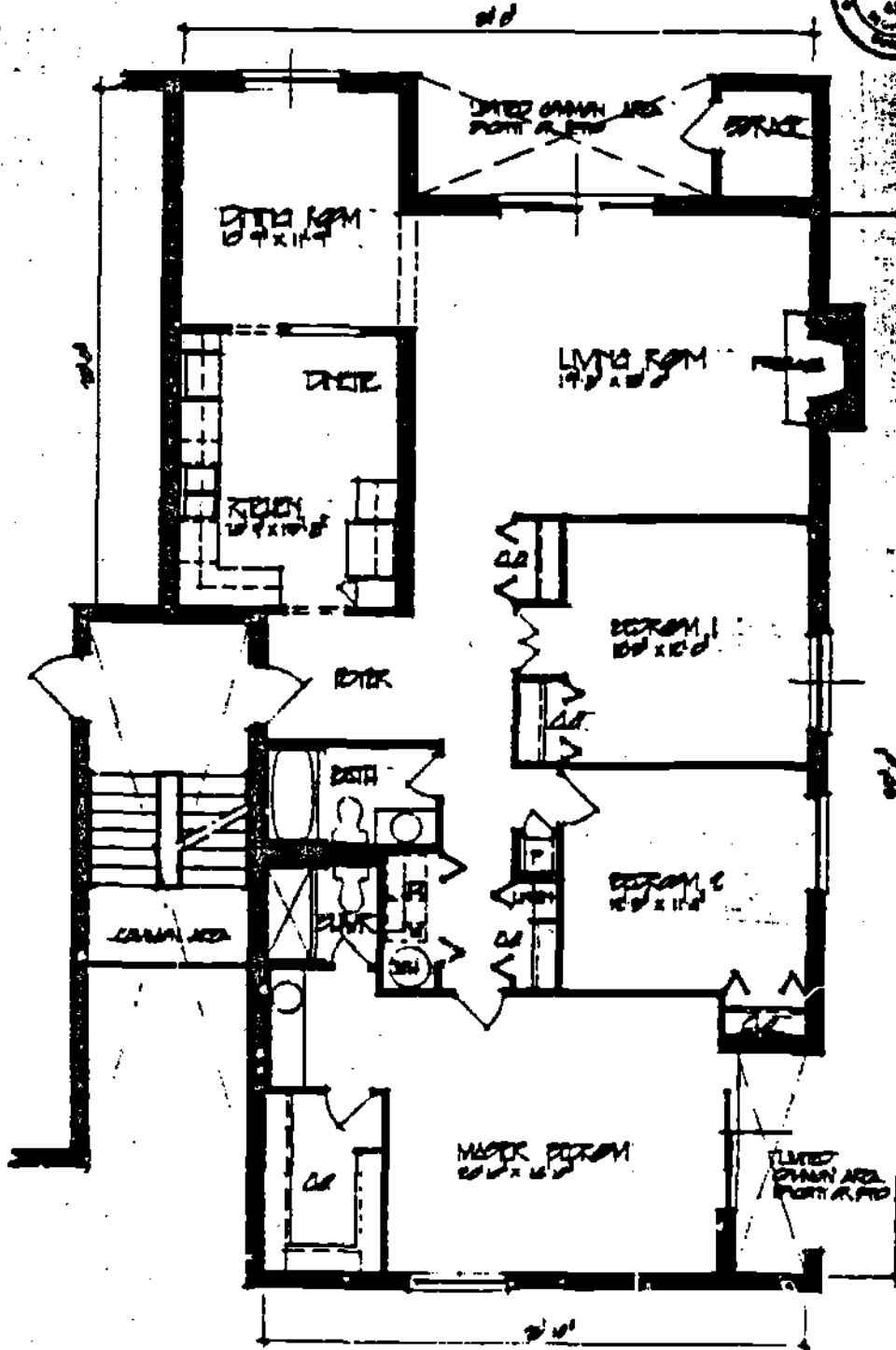
John H. Jorgensen, Company

Architects



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THE PLAN IS  
 FROM ONE OR MORE CONSECUTIVE PLANS ACCURATELY SHOWS THE BUILDING  
 AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS OF THE  
 CONSTRUCTION AS ORDERED BY THE OWNER.

*James L. Henderson*  
 JAMES L. HENDERSON, ARCHITECT



UNIT 'A' - LEFT ENTRY - VERTICAL & MASTER BED ROOM BATH  
 UNIT © ©

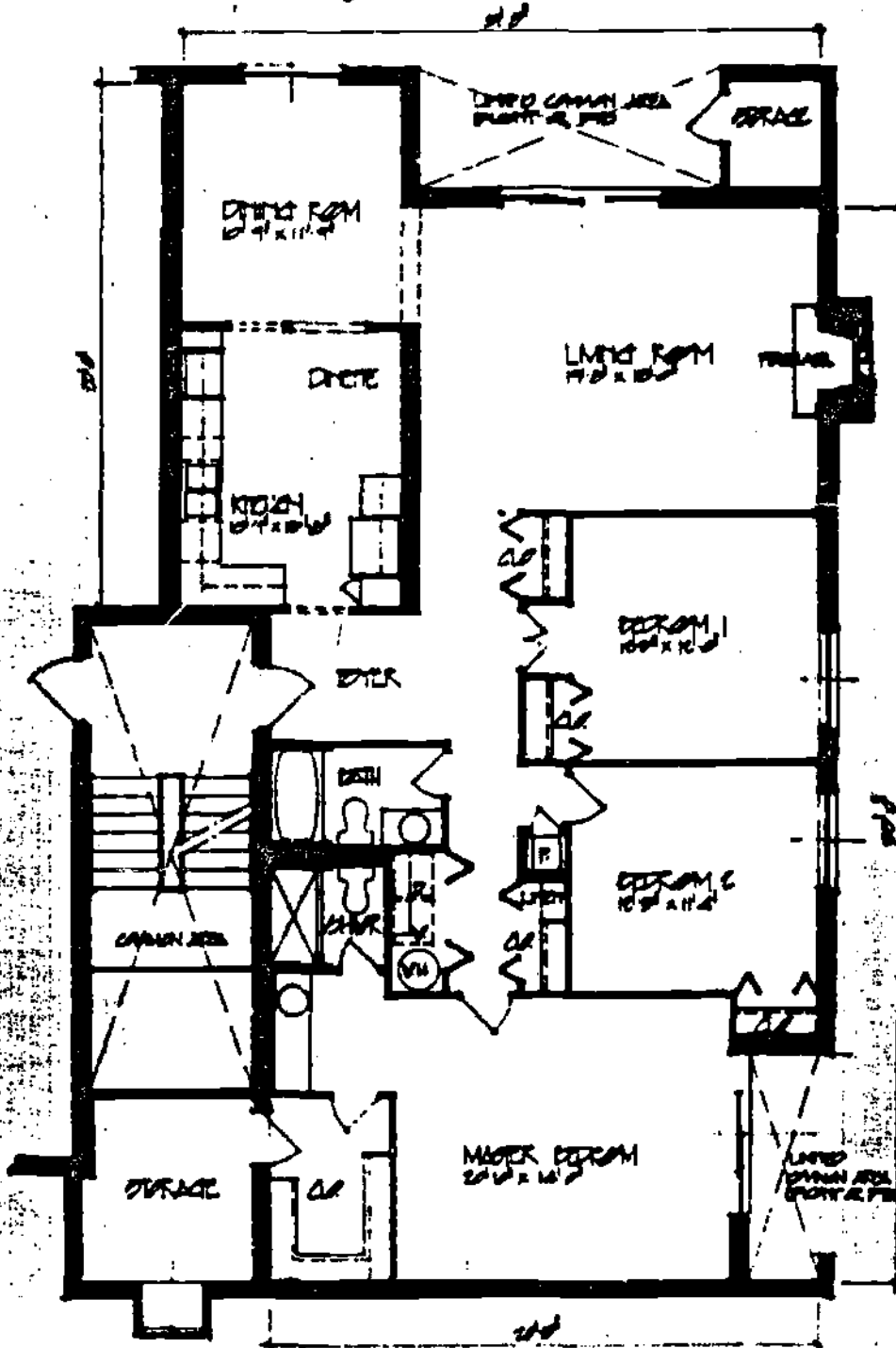
78 493D10

I hereby certify this survey accurately shows the location and extent of the property as shown on the attached plan.

*James P. McLaughlin*  
Surveyor

THE UNDERSIGNED, A LICENSED SURVEYOR, CERTAINS THAT THE SURVEY TO WHICH THIS CERTIFICATE IS REFERRED WAS ACCURATELY DONE BY THE SURVEYOR AS CONTRACTED AND GRAPHICALLY SHOWS THE PARTICULARS OF THE CONVEYANCE AS ORDERED BY THE COURT.

JAMES L. McLAUGHLIN, SURVEYOR



UNIT 12 - LEFT ENTRY - W. REFRIG., STORAGE ROOM,  
& MASTER BEDROOM EXISTING

UNIT 12

78 493D11

A

I hereby certify the drawing attached shows the building as authorized and constructed in plain Greek Doric design.

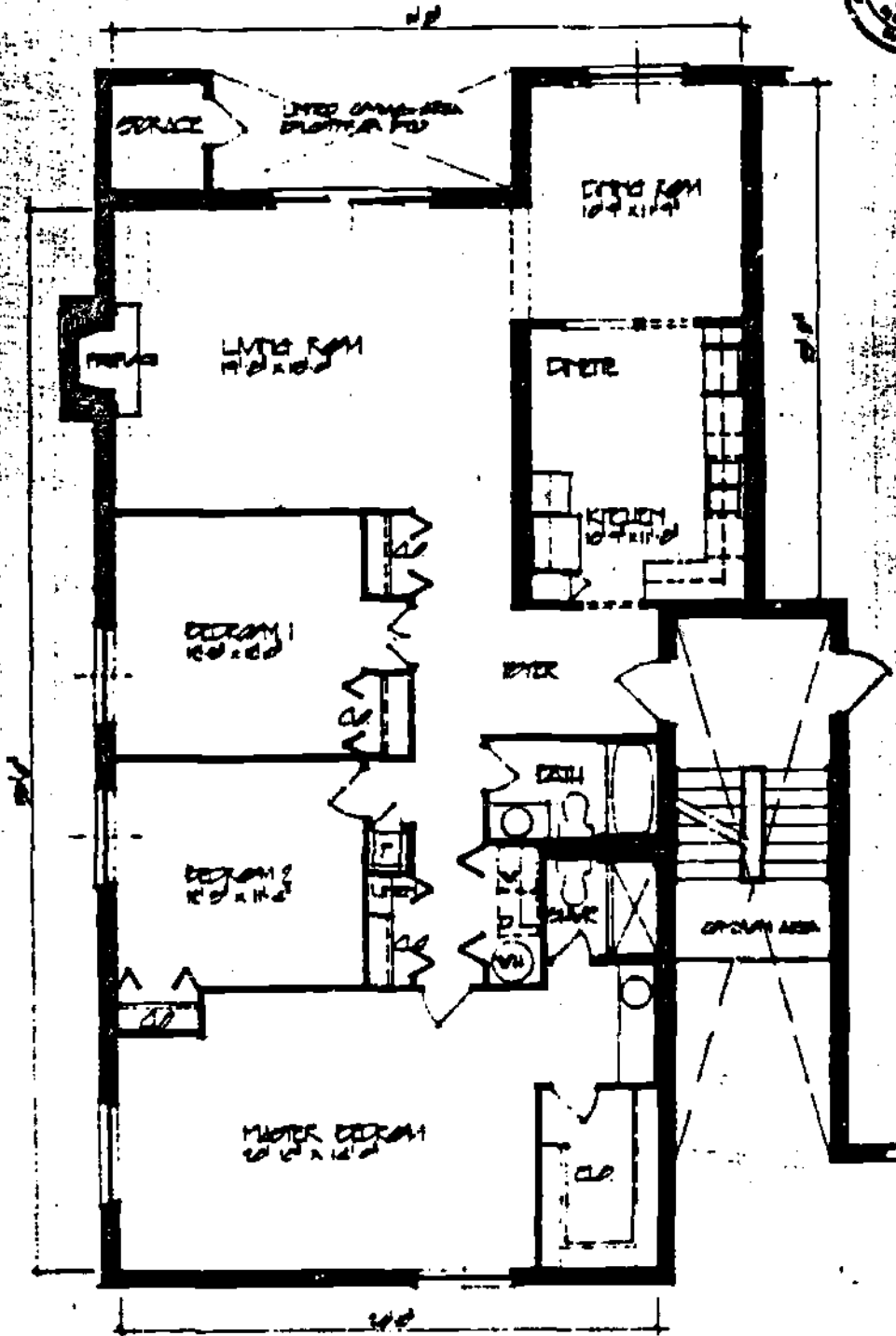
John H. Jolly, Architect

4-10-1912



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THE BUILDING IS PLAIN GREEK DORIC CONSTRUCTION PLANS ACCURATELY SHOWS THE BUILDING AS CONSTRUCTED AND GRAPHICALLY SHOWS THE PARTICULARS AS THE CONSTRUCTION AS REQUIRED BY THE CODE.

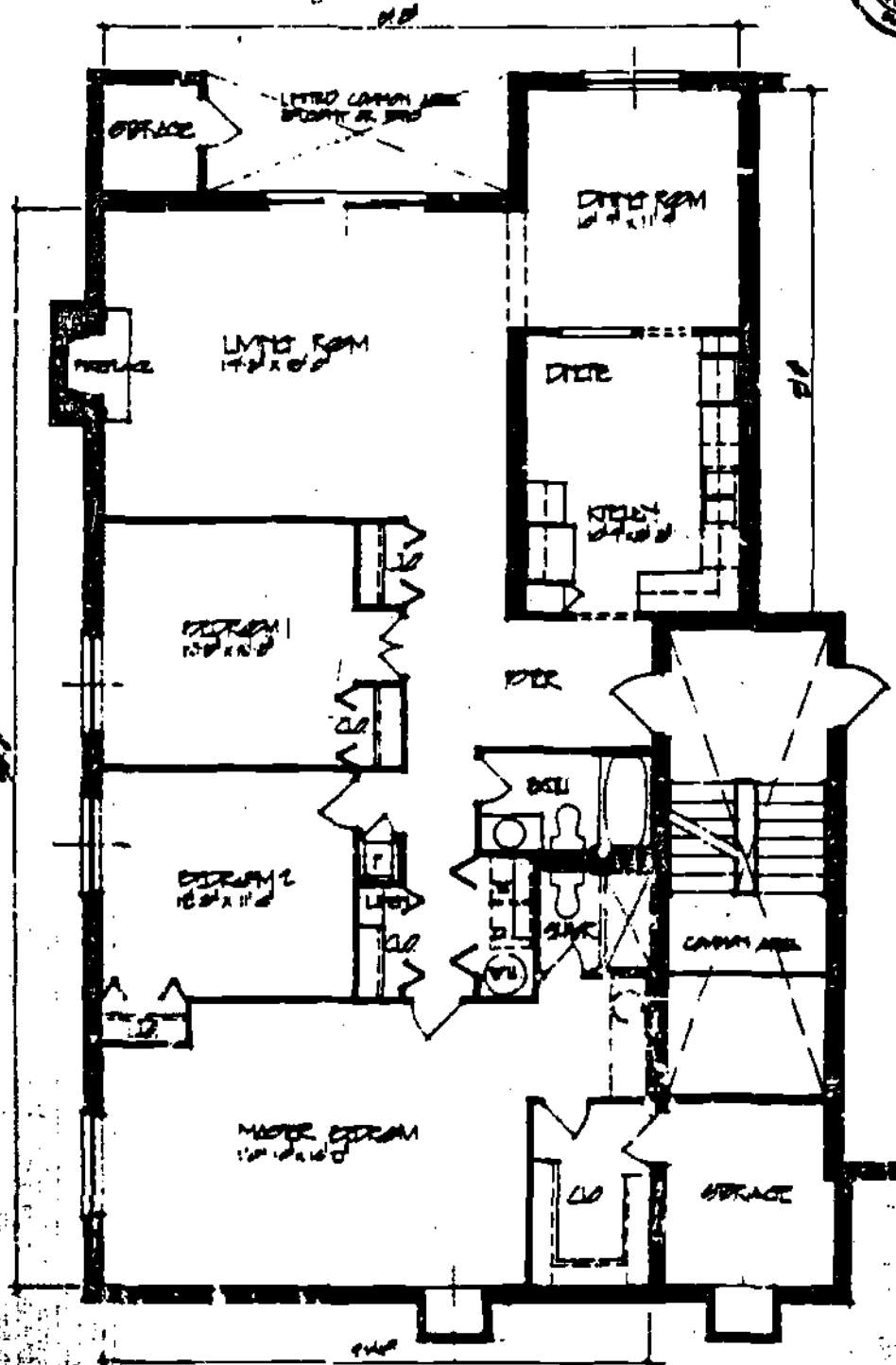
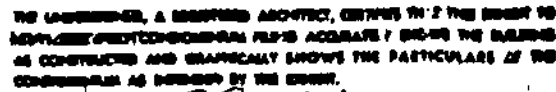
*James L. Hoffman*  
JAMES L. HOFFMAN, ARCHITECT



NOT IN: NOT ENTRY: NO OFFICE: VITRINE

78 493D12

~~SECRET~~



UT 'A' - RGT = NY - VTRAC & SPRAE COM

78 493 E01

78 493 E02

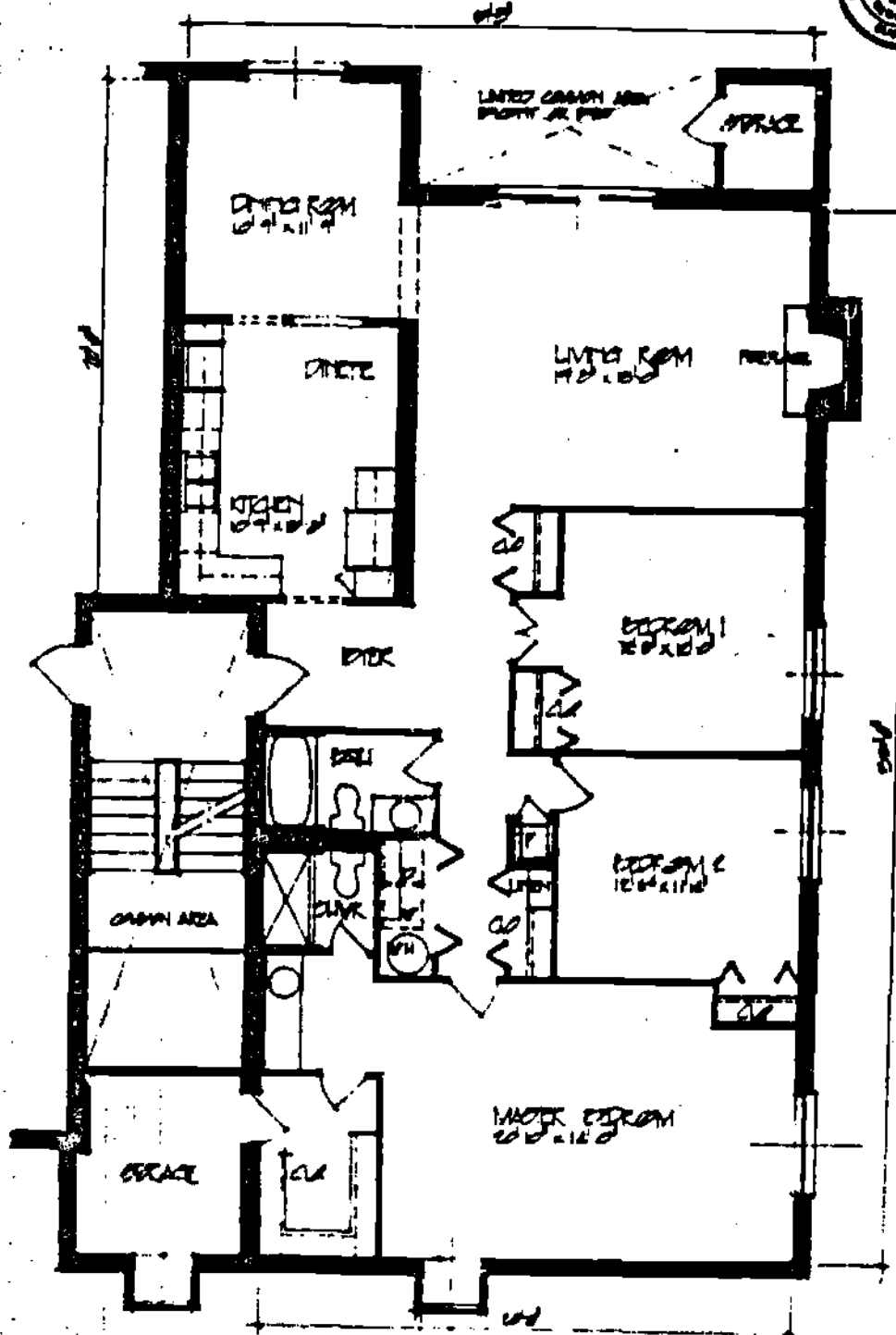
A

I hereby certify that drawings accurately show the existing conditions and dimensions in plan, elevations and sections as shown on the drawings and as shown in the accompanying description.



THE UNDERSIGNED, A REGISTERED ARCHITECT, CERTIFIES THAT THE DRAWING IS A CORRECT AND ACCURATE REPRESENTATION OF THE BUILDING AS DESCRIBED AND GRAPHICALLY SHOWS THE PARTICULARS OF THE BUILDING AS SHOWN BY THE OWNER.

*James L. Henderson*  
JAMES L. HENDERSON, ARCHITECT



78 493 E03

JOB 2 REC  
RECORDED

FEB 28 1 34 PM '79

MONTGOMERY CO. OHIO  
RECORDED

19.00  
#

SECOND AMENDMENT

TO THE

DECLARATION OF CONDOMINIUM

WHICH ESTABLISHED A PLAN FOR CONDOMINIUM OWNERSHIP


FOR THE PROJECT KNOWN AS

INDIAN CREEK GARDEN CONDOMINIUMS

I hereby certify that  
a copy of the within  
Declaration and of any  
drawings and By-Laws  
attached as Exhibits  
thereto has been filed in  
the office of the Auditor  
of Montgomery County, Ohio  
on this 28 day of Feb., 1979.

COUNTY AUDITOR

BY



COUNTY AUDITOR

This Instrument Prepared by:

JAMES R. GOULD  
of the law firm of  
Brumbaugh, Corwin & Gould  
1300 Talbott Tower  
Dayton, Ohio 45402  
Telephone: 513/223-1201

NO IN-STATE  
NEEDED  
COUNTY AUDITOR  
ROBERT L. FODERER

79 093C12



SECOND AMENDMENT  
TO THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR  
INDIAN CREEK GARDEN CONDOMINIUMS

This Second Amendment is made and entered into this 23<sup>rd</sup> day of February, 1979 for the purpose of amending the condominium Declaration which established Indian Creek Garden Condominiums.

(A) Previous Recording Information. The original condominium documents, and subsequent amendments to those documents, have been recorded in the Deed and Plat Records of Montgomery County, Ohio, and with the Secretary of State of Ohio, as follows:

<u>Item Recorded</u>	<u>Date</u>	<u>Microfiche</u>	<u>Plat Book, Page</u>
Declaration of Condominium and By-Laws, Articles of Inc.	12/29/76	76 669A01	B. 101, P. 45
First Amendment to Declaration	9/ 6/78	78 493C07	B. 106, P. 28
Articles of Incorporation of Unit Owners' Association	12/ 3/76	490304	Roll and Frame Roll E219, Fr. 1816

(B) Purpose of this Second Amendment. The original Declaration for this condominium project was executed and recorded as to certain land and buildings referred to therein as Phase I. Said Declaration provided for the subsequent addition or annexation of additional property to the condominium plan, and the First Amendment added and annexed certain land and buildings which were referred to as Phase II. The purpose of this Second Amendment is not to add any additional land or buildings, but instead is to revise various terms and provisions of the Declaration (by which is meant the original Declaration as previously amended), and to revise various terms and provisions of the By-Laws.

(C) Compliance with Requirements of Declaration as to Amendment thereof. This Second Amendment is made under the terms of paragraph 16 (a) on page 9 of the Declaration which provides that the Declaration may be amended by a written instrument duly signed by unit owners entitled to exercise at least 75% of the voting power of the Association. Under the language of paragraph 12 (b) on page 6 of the Declaration each unit included in the condominium plan shall carry one vote with its ownership, but paragraph 28 (b) on page 24 of the Declaration provides that until 75% of the units are sold the Declarant,

"...shall exercise all the powers, rights, duties of the Association...." (Emphasis Added)

At the time this Second Amendment is executed 75% of the units have not been sold; there are 72 total units and only \_\_\_\_ (\_\_\_\_) have been sold. Accordingly, under said paragraph 28 (b) the Declarant is the owner who holds and who shall exercise all of the powers, rights, duties and Functions of the Association; therefore, the Declarant still holds all voting power of the Association and has the right to make and record amendments to the Declaration without necessity of signature by any other owners.

To the extent, however, that any amendment purports to change the percentage of interest in the common area of any unit as expressed in the previously filed Declaration, such amendment must be unanimously approved by each owner affected thereby. No such change in the percentage interest in the common area is sought to be accomplished by the amendments contained herein, however, and so this Second Amendment is executed solely by the Declarant as holder of all voting power of the Association and of all other powers, rights, duties and functions of the Association.

(D) Paragraph 14 entitled Statutory Agent, as it appears on page 6 of the Declaration, is hereby amended to eliminate reference to Charles F. Allbery as the statutory agent of the Assoc-

lation since he is no longer associated with Indian Creek Garden Condominiums, and to clarify that future changes in the position of statutory agent may be made without necessity of an amendment to the Declaration. Accordingly, said paragraph 14 is hereby amended to read as follows:

"14. STATUTORY AGENT. The person to receive service of a process for the Association shall be Frank Furlong whose address is 5 Indian Club Circle, West Carrollton, Ohio 45449. Since the Association is a non-profit corporation under the laws of Ohio, the Trustees of the Association may change its statutory agent from time to time under the provisions of Section 1702.06, Revised Code of Ohio by filing the appropriate official form with the Secretary of State of Ohio who will thereupon record that change in the official records of non-profit corporations maintained by the Secretary of State. Because of the existence of this specific procedure for non-profit corporations and because the name and address of the current statutory agent of every non-profit Ohio corporation is available as public information through the office of the Secretary of State (available through a telephone call as well as by a written inquiry), it is hereby provided that future changes in the name and/or address of the statutory agent representing the Association may be made solely through this non-profit corporation process and without necessity of amending the Declaration in each instance."

(Z) The first or introductory portion of paragraph 15, entitled Additions to Condominium Property and Reservation of Rights, as it appears on page 6 of the Declaration, is hereby amended to extend from four to seven years the time within which the Declarant may add additional land and buildings and improvements thereon to Indian Creek Garden Condominiums. Accordingly, the words "four years" as they appear in the second line of said paragraph 15 on page 6 of the Declaration are hereby amended to read "seven years."

(F) Paragraph 15 (b) entitled Reservation of Easements, as it appears on page 7 of the Declaration, is hereby amended to make it clear that such easements are reserved for the benefit of the specific real estate described in Exhibit A-1 of the Declaration and any residential dwellings and appurtenant structures erected thereon. The existing language of this paragraph fails to describe the specific real estate for the benefit of which the easements are reserved and simply refers to that real estate as the "additional land." Accordingly, said paragraph is hereby amended to read as follows, with new words

being set forth in capital letters and with words deleted being typed with dashes through them:

"(b) Reservation of Easements. For the benefit of the REAL ESTATE DESCRIBED IN EXHIBIT A-1 OF THE DECLARATION (ADDITIONAL LAND) AND ALL RESIDENTIAL DWELLINGS AND APPURTENANT STRUCTURES SUBSEQUENTLY CONSTRUCTED THEREON, Declarant hereby reserves for the owners, and occupants, GUESTS AND INVITEES of residential-units-to-be-constructed-on that additional land and for itself easements over the driveways and walkways of THE LAND INCLUDED IN INDIAN CREEK GARDEN CONDOMINIUMS AS IT MAY BE EXPANDED FROM TIME TO TIME (The Condominium Property) for ingress to and egress from the additional Condominium-Units LAND to dedicated streets, Developer-also-reserves-easements-to-enter-upon-the-Condominium-Property and to make connections with and extend waterlines, sanitary or storm sewer lines, surface water drainage, or other utility lines or services for the benefit of the additional land. Provided, however, the use of any SUCH easements or reserves shall not unreasonably interfere with the use and enjoyment of the Condominium Property, and the party using any such easement shall have the obligation to restore the easement area to as good or better condition than existed prior to the use of said easement."

(G) Paragraph 15 (c) (7) entitled Power of Attorney,

as it appears on page 8 of the Declaration, refers to a period of four years as the life of the provisions in the Declaration regarding adding the "additional land" and more condominium units located thereon to the condominium plan. To reflect the extension from four to seven years of the time within which the Declarant may add the additional land and buildings and improvements thereon to Indian Creek Garden Condominiums, the words "four years" as they appear in the ninth line of said paragraph 15 (c) (7) on page 8 of the Declaration are hereby amended to read "seven years."

(H) Paragraph 15 (d) entitled Form of Amendment, as

it appears on pages 8-9 of the Declaration is hereby amended to change the form in which future amendments which add additional land and units shall be prepared. Under the language of paragraph 15 of the Declaration, the right to add additional land and units to the condominium plan rests solely with the Declarant in his own capacity

and as the attorney-in-fact for the other unit owners; in spite of the fact that the Declarant holds all these powers as to such amendments, subparagraph (d) of paragraph 15 contains the contradictory provision that the form of such amendments adding additional land and units shall be such that the President and Secretary of the Association are also to sign the written amendment documents. Accordingly, to remove this internal inconsistency, the last sentence of said subparagraph (d) which reads as follows:

"The President and Secretary of the Association shall also execute and acknowledge such amendment for and on behalf of the Association and the individual unit owners."

is hereby deleted so as to eliminate the President and Secretary of the Association countersigning such expansion amendments since the Declarant has already been given the sole power to make those amendments. In place of this deleted sentence the following material shall be added to make certain the Association has a record of all such expansion amendments:

"The original of each such amendment, after its recording, shall be delivered to the Association to be maintained as and where the remainder of the original condominium documents are kept by the Association."

(I) Paragraph 26 entitled Removal of Property from Provisions of Chapter 5311, as it appears on page 23 of the Declaration, is hereby amended by deleting the incorrect reference to Chapter 5311 of the Ohio Revised Code (a chapter which does not exist) and by substituting a reference to Chapter 5311 (which contains the condominium statutes of Ohio).

(J) Paragraph 2 entitled Definitions and Section (d) thereof Common Expenses, as they appear on page 1 of the Declaration, are hereby amended to read as follows:

"2. DEFINITIONS. The following terms used herein and in the By-Laws and Articles of Incorporation of the Association are defined as follows:

...  
(d) Common Expenses. Means those expenses designated as such by Chapter 5311 of the Revised Code of Ohio and as provided in this Declaration (and in the By-Laws and Articles of Incorporation of the Association) to be shared by all of the Unit Owners, except as follows:

(I) for units titled to owners other than Declarant and for units still titled to Declarant but occupied by tenants, the term 'common expenses'

shall not include any of the expenses referred to above which are applicable solely to and produced by unoccupied units titled to and produced by Declarant. Those excluded expenses shall be referred to as 'Declarant's expenses.' Therefore, it shall not be the responsibility of the Association or of occupied units or units titled to owners other than Declarant to participate in paying the expenses of the Declarant's unoccupied units, but instead those units which are occupied or are titled to other owners shall pay assessments only for their own 'common expenses,' and the 'Declarant's expenses' shall be paid solely by the Declarant who shall have the obligation to pay all expenses of the maintenance, repair, administration, replacement, insurance and operation of unoccupied units titled in his name. The Declarant shall have the benefit of all easements granted to the Association, so as to enable him to enter onto those portions of the condominium property he is obligated to maintain, etc.

This means expenses of maintaining, etc. buildings and common area added to Indian Creek Garden Condominiums together and at the same time (through any particular amendment to the Declaration) shall be prorated between 'common expenses' payable by assessment to the Association and 'Declarant's expenses' payable directly by the Declarant and not by assessment and not by the Association, based upon the proportion of units covered by that amendment which are unoccupied and are titled to the Declarant.

(II) for such unoccupied units titled to Declarant the term 'common expenses' shall not include any of the expenses referred to in the introductory paragraph of this section (d). Since all expenses applicable solely to and produced by such units have been defined as 'Declarant's expenses' and are to be paid solely by the Declarant, the term 'common expenses,' as applied to such units, shall include no costs, charges or expenses whatsoever, and therefore the assessments for 'common expenses' against such units shall be zero.

Provided, however, that if the Declarant fails to pay such 'Declarant's expenses' or to maintain, repair, administer, replace, insure or operate any such unit in a manner reasonably identical to the maintenance, etc. of occupied units (taking into account the absence of occupants and the stage of construction), in the sole discretion of the mortgagee holding more first mortgages on units than any other first mortgagee and after such mortgagee gives ten days written notice to the Declarant to cure the situation, the Association shall have full power and authority to effect the required maintenance, etc. at once and at a reasonable cost and to assess such costs solely to and against the unit(s) on or for which such maintenance, etc. was performed."

This amendment to paragraph 2 (d) is applicable retroactively to September 6, 1978, the date thirty additional units were added to the condominium plan by the First Amendment to the Declaration. This retroactive effect shall relieve the Association from any liability whatsoever

for "Declarant's expenses" commencing as of that date, and any such expenses paid by the Association after that date shall be repaid by Declarant to the Association immediately (or offset against any money owing to Declarant from the Association.) Similarly, this retroactive effect shall relieve Declarant from any liability to pay assessments to the Association for such unoccupied units titled in his name, and any such assessments already paid by the Declarant shall be repaid by the Association to the Declarant immediately (or offset against any money owing to the Association from the Declarant.)

If the Declarant and the Association are unable to agree on the exact apportionment of expenses paid by Declarant and/or the Association from and after September 6, 1978, the matter shall be arbitrated by one CPA hired by the Declarant (as "Declarant's expense") and by one CPA hired by the Association (as a "common expense"), and if those CPA's cannot agree they shall select a third arbitrator CPA (paid jointly as "Declarant's expense" and "common expense") and the decision of a majority of these arbitrators shall be final, binding and conclusive upon the parties.

Any use of the words "common expenses" and any reference to the Association paying, or assessments being levied for, "common expenses" shall be construed in the light of, be subject to and be controlled by this definition. As one example, paragraph 20 on pages 16-18 of the Declaration states that the Association shall carry certain insurance coverage and that the cost thereof shall be a common expense, but under the revised definition as effective on and after September 6, 1978 the cost of such insurance upon unoccupied units titled to the Declarant shall constitute part of "Declarant's expense" and as such shall be an obligation of the Declarant rather than of the Association.

(K) Real Estate Subject to this Second Amendment. The real estate which is affected by and subject to this Second Amendment is described in Exhibit B attached hereto and made a part hereof by such physical attachment and through the doctrine of incorporation by reference. Further, "Additional Land" as described in the Declaration, which may or may not be added to this condominium plan, but for the benefit of which certain easements are reserved over the Condominium Property is also described in Exhibit B.

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(L) Paragraph 28 entitled Miscellaneous Provisions  
and Section (b) thereof entitled Declarant's Rights Pending Sale of  
Units, as it appears on page 24 of the Declaration, is hereby amended  
to provide that Declarant's rights to control the Association and  
also Declarant's rights to control the Board of Trustees shall term-  
inate from and after March 31, 1979. In view of the fact that this  
amendment will transfer control of Indian Creek Garden Condominiums  
and of the Association and the Board of Trustees to Unit Owners other  
than the Declarant, this section is further amended by adding language  
which preserves and protects the various easements, interests, etc.,  
which were granted in other portions of the condominium documents,  
i.e. other than 28 (b), to or for Declarant or the Additional Land.  
Accordingly, said section 28 (b) is hereby amended to read as follows,  
with new words being set forth in capital letters and with words de-  
leted being typed with dashes through them:

"(b) Declarant's Rights Pending-Sale-of-Units-  
Until such time as Declarant shall have consummated  
the sale of a sufficient number of ownership interests  
to entitle the Unit Owners, other than Declarant,  
to exercise seventy-five percent (75%) of the voting  
power in the Association and a meeting of the Assoc-  
iation at which a Board is elected has been held,  
Declarant shall exercise the powers, rights, duties  
and functions of the Association and the Board in-  
cluding without limitation the power to determine  
the amount of and to levy special assessments and  
assessments for Common Expenses. THESE RIGHTS OF  
DECLARANT TO CONTROL THE ASSOCIATION AND ALSO DE-  
CLARANT'S RIGHTS TO CONTROL THE BOARD OF TRUSTEES  
SHALL TERMINATE FROM AND AFTER MARCH 31, 1979. ANY  
AND ALL EASEMENTS, INTERESTS, RIGHTS, BENEFITS,  
POWERS, PRIVILEGES, APPOINTMENTS AND COVENANTS WHICH  
ARE OR HAVE BEEN GRANTED, RESERVED OR OTHERWISE GIVEN  
TO OR CREATED FOR THE BENEFIT OF THE DECLARANT AND/OR  
THE ADDITIONAL LAND BY THE TERMS OF THE DECLARATION,  
THE BY-LAWS OR THE ARTICLES OF INCORPORATION OF THE  
ASSOCIATION, AS THE SAME MAY HAVE BEEN AMENDED FROM  
TIME TO TIME (BUT EXCEPTING RIGHTS HELD BY THE DE-  
CLARANT UNDER PARAGRAPH 28 (b) UP THROUGH MARCH 31, 1979)  
AND THROUGH THE APPLICATION OR ADMINISTRATION OF THOSE  
DOCUMENTS BY THE ASSOCIATION AND THE BOARD OF TRUSTEES,  
SHALL CONTINUE TO BELONG TO AND TO BE EXERCISED BY  
THE DECLARANT AND THE OWNER OF THE ADDITIONAL LAND AND  
THEIR RESPECTIVE HEIRS, SUCCESSORS, PERSONAL REPRESENT-  
ATIVES AND ASSIGNS; AND NONE OF SAID EASEMENTS, INTERESTS,  
ETC. SHALL BE AMENDED, LIMITED, MODIFIED OR TERMINATED  
IN ANY MANNER, INCLUDING BUT NOT LIMITED TO ACTION BY  
THE ASSOCIATION, THE BOARD OF TRUSTEES, COURT ORDERS,  
OR AMENDMENTS TO ANY OF THE CONDOMINIUM DOCUMENTS REFERRED  
TO ABOVE WITHOUT THE PRIOR WRITTEN EXPRESS CONSENT OF THE  
DECLARANT (AND OF THE OWNER OF THE ADDITIONAL LAND, AS  
THE CASE MAY BE) INCLUDED IN A FURTHER AMENDMENT TO THE  
DECLARATION AND WITNESSED AND ACKNOWLEDGED IN THE SAME  
MANNER AS IS NECESSARY FOR THE EXECUTION OF DEEDS IN THE  
STATE OF OHIO."

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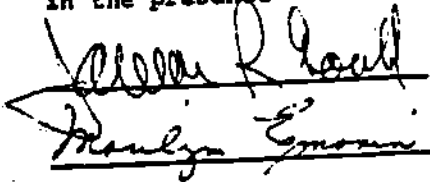


(M) Amendments to the By-Laws. This Second Amendment also effects certain amendments to the By-Laws, and those amendments are attached to and made a part of this Second Amendment by such physical attachment and also through the doctrine of incorporation by reference.

(N) No Severability. The provisions of this Second Amendment are not severable, and a determination of invalidity or restricted application of any one or more provisions included herein shall invalidate all other terms of and all amendments included in this Second Amendment, ab initio.

IN WITNESS WHEREOF, the Declarant FRANK FURLONG, has executed this Second Amendment to the Declaration, which includes Exhibits A and B, on this 23<sup>rd</sup> day of February, 1979.

Signed and acknowledged  
in the presence of:


  
Notary Public

  
Frank Furlong

State of Ohio, County of Montgomery, ss:

Before me, a notary public in and for said county and state, personally appeared the above-named FRANK FURLONG who acknowledged that he signed the foregoing Second Amendment to the Declaration of Condominium for the project known as Ind. an Creek Garden Condominiums, and that the same is his free act and deed for the uses and purposes mentioned therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal this 23<sup>rd</sup> day of February, 1979.

  
Notary Public  
JAMES L. GOURD, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no Expiration Date  
Section 147.03 R.C.

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04246

CKID. PEGG  
REORDER

APR 1 3 42 PM '82

MCN - 117 60 - 0010

THIRD AMENDMENT

TO THE

DECLARATION OF CONDOMINIUM

WHICH ESTABLISHED A PLAN FOR CONDOMINIUM OWNERSHIP

FOR THE PROJECT KNOWN AS

INDIAN CREEK GARDEN CONDOMINIUMS

Prepared by:

JAMES R. GOULD  
of the law firm of  
Altick & Corwin  
1300 Talbott Tower  
Dayton, Ohio 45402  
Telephone: 513/223-1201

A copy of the within  
Third Amendment to the  
Declaration of Condominium  
and of any drawings and  
exhibits attached thereto  
has been filed in the  
office of the Auditor of  
Montgomery County, Ohio  
on this 7 day of April, 1982.

Montgomery County Auditor

BY

COUNTY AUDITOR

APR 1 8 21

NO 11 ON

82127E04

THIRD AMENDMENT

TO THE DECLARATION OF CONDOMINIUM OWNERSHIP FOR

INDIAN CREEK GARDEN CONDOMINIUMS

This Third Amendment is made and entered into for the purpose of amending the Declaration which established Indian Creek Garden Condominiums.

(A) Previous Recording Information. The original condominium documents and subsequent amendments to those documents, together with an Easement over part of the real estate included in this condominium, have been recorded in the Deed and Plat Records of Montgomery County, Ohio and with the Secretary of State of Ohio as follows:

<u>Item Recorded</u>	<u>Date</u>	<u>Microfiche</u>	<u>Plat Book, Page</u>
Declaration of Condominium and By-Laws, Articles of Incorporation	12/29/76	76 669A01	B. 101, P. 45
		<u>Corp. Number</u>	<u>Roll, Frame</u>
Articles of Incorporation of Unit Owners' Association	12/3/76	490304	Roll E219, Fr. 1816
First Amendment to Declaration	9/6/78	78 493C07	B. 106, P. 28
Second Amendment to Declaration	2/28/79	79 093C12	None
Easement		82 28B01	None

(B) Purpose of this Third Amendment is to Repeal the Second Amendment. The purpose of this Third Amendment to the Declaration is not to add any additional land or buildings (and so no drawings are included), but is instead to repeal the Second Amendment to the Declaration referred to above. Each and every term and provision of that Second Amendment is hereby repealed and cancelled.

That Second Amendment was signed and recorded by the Declarant, Frank Furlong, without the signature of any other owners of units included in this condominium development. Through that Second Amendment the Declarant attempted to make changes in the Declaration of Condominium and in the By-Laws of the unit owners' association known as Indian Creek Condominium Association.

As the sole person who signed and recorded the Second Amendment, said Declarant hereby withdraws, retracts, repeals and cancels that document, which shall hereafter be void. Further, the Declarant hereby releases and discharges any and all rights which he may have acquired or attempted to acquire under that Second Amendment.

(C) No Other Changes. The only changes in the Declaration, as previously amended, are those set forth above in this Third Amendment, and with the exception of these changes the Declaration as previously amended (minus the Second Amendment which is hereby repealed and cancelled) is ratified, confirmed and approved.

IN WITNESS WHEREOF, this Third Amendment has been executed by Frank Furlong, the Declarant, on the 21<sup>st</sup> day of March, 1982, to be binding upon his heirs, executors, administrators, and assigns.

Signed and Acknowledged  
in the Presence of:

Wm. E. Deane Jr.

Frank Furlong

Bill W. Adams

State of Ohio, County of Montgomery, ss:

The foregoing instrument was acknowledged before me on this 21<sup>st</sup> day of March, 1982 by Frank Furlong.

Bill W. Adams  
Notary Public

28. 7 AM

My C.

NOT. 7  
1982

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82127E06

REGISTERED ENGINEER  
AND SURVEYORS

TELEPHONE  
29A-14A1

John W. Judge Engineering Company

CONSULTANT ENGINEERING

1201 EAST DAVID ROAD

DAYTON, OHIO 45429

Description of Land containing Buildings  
No. 5 and 6 in Indian Creek, Section Two

Situate in Section 14, Town 1, Range 6 NMs, City of West Carrollton, Montgomery County, Ohio and being part of Lot numbered 3835, Indian Creek, Section Two as recorded in Book 99, Page 32 of the Montgomery County Plat Records and being more particularly described as follows:

Beginning at a point on the west right-of-way line of Interstate Route 75 at the northeast corner of said Indian Creek, Section Two;

thence from said place of beginning S 0° 37' 30" E with said west right-of-way line a distance of 374.54 feet to a point; thence with new division line S 80° 01' 50" W a distance of 86.64 feet to a point; thence S 29° 30' 00" W a distance of 130.00 feet to a point; thence S 80° 01' 50" W a distance of 40.00 feet to a point; thence N 60° 30' 00" W a distance of 170.90 feet to a point; thence N 29° 30' 00" E a distance of 115.33 feet to a point; thence N 21° 30' 00" W a distance of 265.82 feet to a point on the north line of said Indian Creek, Section Two; thence with said north line N 68° 30' 00" E a distance of 83.12 feet to a point; thence N 80° 01' 50" E a distance of 248.43 feet to the place of beginning containing 2.920 acres, more or less, subject, however, to all legal highways and easements of record.

Deed Reference: Book 2530, Pages 285 and 290

John W. Judge  
February 16, 1976

78 493E04

REGISTERED ENGINEERS  
AND SURVEYORS

TELEPHONE  
294-1441

*Exhibit E*  
**John W. Judge Engineering Company**

CONSULTANT ENGINEERING

1201 EAST DAVID ROAD

DAYTON, OHIO 45429

Description of Land contained in Phase I  
and Phase II, Indian Creek, Section Two  
West Carrollton, Ohio containing 7.927 Acres

Situate in Section 14, Town 1, Range 6 MRS, City of West Carrollton,  
Montgomery County, Ohio and being part of Lot numbered 3835, Indian  
Creek, Section Two as recorded in Book 99, Page 32 of the Montgomery  
County Plat Records and being more particularly described as follows:

Beginning at a point on the west right-of-way line of Interstate  
Route 75 at a northeast corner of Indian Creek, Section One as  
recorded in Book 91, Pages 101 and 102 of the Montgomery County  
Plat Records.

thence from said place of beginning with the north boundary of said  
Indian Creek, Section One S 80° 01' 50" W a distance of 200.79 feet  
to a point; thence N 9° 58' 10" W a distance of 180.00 feet to a  
point; thence S 80° 01' 50" W a distance of 93.00 feet to a point;  
thence S 57° 59' 53" W a distance of 193.42 feet to a point;  
thence S 7° 30' 30" E a distance of 70.00 feet to a point;  
thence S 80° 41' 02" W a distance of 144.64 feet to a point on the  
east right-of-way line of Indian Trail in said Indian Creek, Section  
Two; thence with said east right-of-way line northwestwardly on a  
curve to the left an arc distance 46.36 feet to a point, said  
curve having a radius of 354.22 feet, a chord distance of 46.33  
feet and a chord bearing of N 9° 33' 58" W; thence N 9° 18' 58" W  
a distance of 280.00 feet to a point; thence northeastwardly on  
a curve to the right an arc distance of 46.37 feet to a point, said  
curve having a radius of 50.00 feet, a chord distance of 44.72 feet  
and a chord bearing of N 17° 14' 56" E; thence northwestwardly on  
a curve to the left an arc distance of 167.10 feet to a point, said  
curve having a radius of 50.00 feet, a chord distance of 99.50 feet  
and a chord bearing of N 51° 55' 35" W; thence N 32° 20' 00" E a  
distance of 164.52 feet to a point; thence N 68° 30' 00" E a  
distance of 320.25 feet to a point; thence N 80° 01' 50" E a  
distance of 248.43 feet to a point at the northeast corner of said  
Indian Creek, Section Two on the west right-of-way line of Inter-  
state Route 75; thence with said west right-of-way line S 8° 37'  
30" E a distance of 550.00 feet to a point; thence S 9° 58' 10" E  
a distance of 114.94 feet to the place of beginning containing  
7.927 acres, more or less, subject, however, to all legal highways  
and easements of record.

Deed Reference: Book 2530, Pages 285 and 290

*Robert L. Henry*

Robert L. Henry  
Registered Professional Engineer  
August 24, 1918

78 493 E05

**EXHIBIT F**  
**INDIAN CREEK GARDEN CONDOMINIUM**  
**PERCENTAGE OF INTEREST IN THE**  
**COMMON AREAS AND FACILITIES**

THE SECOND PHASE OF INDIAN CREEK GARDEN CONDOMINIUM CONSISTS OF 30 UNITS WHICH EXPANDS THIS CONDOMINIUM TO 72 UNITS. THE CONDOMINIUM IS EXPANDABLE TO A TOTAL OF 156 UNITS AND THESE ADDITIONAL UNITS WILL BE ADDED IN PHASES. AS EACH PHASE IS ADDED, THE PERCENTAGE OF INTEREST IN THE COMMON AREAS AND FACILITIES WILL BE ADJUSTED TO REFLECT THE PERCENTAGE OF INTEREST IN EACH UNIT TO THE ENTIRE COMMON AREAS AND FACILITIES THEN EXISTING IN THE CONDOMINIUM.

BUILDING NO.	ADDRESS	UNIT NUMBER	LOCATION	PERCENTAGE
1	1100 Eagle Nest Court	1	Lower Left	1.281
1	1100 Eagle Nest Court	2	Lower Right	1.315
1	1100 Eagle Nest Court	3	Middle Left	1.315
1	1100 Eagle Nest Court	4	Middle Right	1.348
1	1100 Eagle Nest Court	5	Upper Left	1.348
1	1100 Eagle Nest Court	6	Upper Right	1.383
2	1105 Snowshoe Trail	7	Lower Left	1.486
2	1105 Snowshoe Trail	8	Lower Right	1.281
2	1105 Snowshoe Trail	9	Middle Left	1.518
2	1105 Snowshoe Trail	10	Middle Right	1.315
2	1105 Snowshoe Trail	11	Upper Left	1.518
2	1105 Snowshoe Trail	12	Upper Right	1.348
2	1109 Snowshoe Trail	13	Lower Left	1.325
2	1109 Snowshoe Trail	14	Lower Right	1.315
2	1109 Snowshoe Trail	15	Middle Left	1.348
2	1109 Snowshoe Trail	16	Middle Right	1.348
2	1109 Snowshoe Trail	17	Upper Left	1.383
2	1109 Snowshoe Trail	18	Upper Right	1.383
2	1113 Snowshoe Trail	19	Lower Left	1.281
2	1113 Snowshoe Trail	20	Lower Right	1.486
2	1113 Snowshoe Trail	21	Middle Left	1.315
2	1113 Snowshoe Trail	22	Middle Right	1.486
2	1113 Snowshoe Trail	23	Upper Left	1.348
2	1113 Snowshoe Trail	24	Upper Right	1.552
4	1600 Pinewood Lane	25	Lower Left	1.486
4	1600 Pinewood Lane	26	Lower Right	1.281
4	1600 Pinewood Lane	27	Middle Left	1.518
4	1600 Pinewood Lane	28	Middle Right	1.315
4	1600 Pinewood Lane	29	Upper Left	1.518
4	1600 Pinewood Lane	30	Upper Right	1.348
4	1602 Pinewood Lane	31	Lower Left	1.315
4	1602 Pinewood Lane	32	Lower Right	1.315
4	1602 Pinewood Lane	33	Middle Left	1.348
4	1602 Pinewood Lane	34	Middle Right	1.348
4	1602 Pinewood Lane	35	Upper Left	1.383
4	1602 Pinewood Lane	36	Upper Right	1.383
4	1606 Pinewood Lane	37	Lower Left	1.281
4	1606 Pinewood Lane	38	Lower Right	1.486
4	1606 Pinewood Lane	39	Middle Left	1.315
4	1606 Pinewood Lane	40	Middle Right	1.518
4	1606 Pinewood Lane	41	Upper Left	1.348
4	1606 Pinewood Lane	42	Upper Right	1.518

Exhibit F  
Percentage of Interest  
Page 2

BUILDING NO.	ADDRESS	UNIT NUMBER	LOCATION	PERCENTAGE
5	1600 Thunderbird Lane	43	Lower Left	1.486
5	1600 Thunderbird Lane	44	Lower Right	1.281
5	1600 Thunderbird Lane	45	Middle Left	1.518
5	1600 Thunderbird Lane	46	Middle Right	1.315
5	1600 Thunderbird Lane	47	Upper Right	1.518
5	1600 Thunderbird Lane	48	Upper Right	1.348
5	1602 Thunderbird Lane	49	Lower Left	1.315
5	1602 Thunderbird Lane	50	Lower Right	1.315
5	1602 Thunderbird Lane	51	Middle Left	1.348
5	1602 Thunderbird Lane	52	Middle Right	1.348
5	1602 Thunderbird Lane	53	Upper Left	1.383
5	1602 Thunderbird Lane	54	Upper Right	1.383
5	1606 Thunderbird Lane	55	Lower Left	1.281
5	1606 Thunderbird Lane	56	Lower Right	1.486
5	1606 Thunderbird Lane	57	Middle Left	1.315
5	1606 Thunderbird Lane	58	Middle Right	1.486
5	1606 Thunderbird Lane	59	Upper Left	1.348
5	1606 Thunderbird Lane	60	Upper Right	1.552
6	1610 Thunderbird Lane	61	Lower Left	1.486
6	1610 Thunderbird Lane	62	Lower Right	1.281
6	1610 Thunderbird Lane	63	Middle Left	1.518
6	1610 Thunderbird Lane	64	Middle Right	1.315
6	1610 Thunderbird Lane	65	Upper Left	1.518
6	1610 Thunderbird Lane	66	Upper Right	1.348
6	1614 Thunderbird Lane	67	Lower Left	1.281
6	1614 Thunderbird Lane	68	Lower Right	1.486
6	1614 Thunderbird Lane	69	Middle Left	1.315
6	1614 Thunderbird Lane	70	Middle Right	1.486
6	1614 Thunderbird Lane	71	Upper Left	1.348
6	1614 Thunderbird Lane	72	Upper Right	1.552
			TOTAL	100.0000

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EXHIBIT G  
CONSENT OF MORTGAGEE

The undersigned, Homestead Federal Savings and Loan Association, holder of a certain mortgage deed to the premises from Frank Furlong and Aileen J. Furlong, dated September 29, 1975, and recorded in Mortgage Record 75-850811 in the Mortgage Records of Montgomery County, Ohio, hereby consents to the First Amendment of the Declaration of Indian Creek Garden Condominium to add Phase II thereto and to the filing thereof in the Office of the County Recorder of Montgomery County, Ohio, and further subjects the above described mortgage to the provisions of the foregoing Declaration of Condominium Ownership together with the Amendment thereto.

IN WITNESS WHEREOF, Homestead Federal Savings and Loan Association, by its duly authorized Officer, has caused the execution of the foregoing Consent this 11<sup>th</sup> day of August, 1978.

Signed and acknowledged  
in the presence of:

HOMESTEAD FEDERAL SAVINGS AND  
LOAN ASSOCIATION

Barbara L. Mann  
Dorothy E. Ackerman

By George H. Feldmaier  
George H. Feldmaier, President

STATE OF OHIO )  
MONTGOMERY COUNTY ) SS:

Before me, a notary public in and for said County and State, personally appeared the above named Homestead Federal Savings and Loan Association by George H. Feldmaier, its President, who acknowledged the execution of the foregoing Consent to be the free act and deed of said Association and his free act and deed personally and as such Officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 11<sup>th</sup> day of August, 1978.

Dorothy E. Ackerman  
Notary Public

LARRY E. ACKERMAN, Notary Public  
In and for the State of Ohio  
My Commission Expires May 22, 1981

This instrument prepared by:  
Benjamin F. Allbery, Attorney  
1200 American Building  
Dayton, Ohio 45402  
513/228-7183

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