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Cook County Recorder 181.50



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Property of Cook County Clerk's Office

**ORDINANCE NO. 0-101-99**

**AN ORDINANCE GRANTING FINAL PLANNED DEVELOPMENT APPROVAL  
ASPEN GROVE**

02-23-311-004  
02-23-311-011  
02-23-311-014  
02-23-311-015

Published in pamphlet form by authority of the  
Mayor and Village Council of the Village of Palatine  
on July 26, 1999

Village of Palatine  
200 E. Wood Street  
Palatine, IL 60067  
ATTN: Village Clerk

ORDINANCE NO. 0-101-99

**AN ORDINANCE  
GRANTING FINAL PLANNED DEVELOPMENT APPROVAL  
ASPEN GROVE**

WHEREAS, upon petition of owners of said property, hearings were held by the Plan Commission of the Village of Palatine on October 20, 1998 in accordance with the Zoning Ordinance of the Village of Palatine, in such case made and provided, and said Plan Commission, having made its findings in a report to the Mayor and Village Council of the Village of Palatine regarding a request for Final Planned Development approval.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Village Council of the Village of Palatine, Cook County, Illinois, acting in the exercise of their home rule power:

**SECTION 1:** That final approval of a Planned Development is hereby granted pursuant to Section 13.05 of the Palatine Zoning Ordinance for the real estate described as follows, to wit:

Lots 4, 5, 6 and the West 100 feet of the West 200 feet of Lots 7, 8 and 9 in Block 7 in Arthur T. McIntosh & Company's Palatine Estates Unit 1, a subdivision of the Southeast 1/4 of the Southeast 1/4 of Section 22, Township 42 North, Range 10, East of the Third Principal Meridian, in Cook County, Illinois

commonly known as the vacant 2.6 acres at the northeast corner of Illinois Avenue and Plum Grove Road.

**SECTION 2:** That final approval of a Planned Development is hereby granted to the above described property pursuant to Section 13.05 of the Palatine Zoning Ordinance, subject to the following conditions:

1. The planned development shall substantially conform to the final engineering plans (10 sheets) by P&D Consultants., dated 2/15/99, last revised 6/1/99 and to the Site Plan by Barrington Engineering, LTD. Received by the Village on June 23, 1999, and to the Landscape Plan by

JJ Hayden, Inc., dated 3/3/98, last revised 5/29/98 and to the final plat of subdivision by Barrington Engineering, LTD., dated 6/2/99, and to the Architectural Elevations and Floor Plans attached hereto as Exhibit "A" and the Declarations of Covenants, Conditions and Restrictions attached hereto as Exhibit "B", and to the sales brochure attached hereto as Exhibit "C", except as such plans may be changed to conform to Village Codes and Ordinances and the following conditions:

- 2. A letter of credit to ensure the completion of the planned development in a form acceptable to the Village and in the amount of \$50,000 shall be submitted prior to recording the plat.
- 3. The Declarations of Covenants, Conditions and Restrictions shall be revised in a manner acceptable to the Village Attorney.
- 4. Additional landscape material shall be planted along the north lot line near the detention basin, in a manner acceptable to the Village.
- 5. Pro Rata contributions for the Plum Grove Road reconstruction in the amount of \$9,500 shall be submitted prior to recording the plat.
- 6. The detention basin shall have a clay liner.

**SECTION 3:** That the petition for special use, a copy of the public notice, and the minutes of the Plan Commission Meeting reporting on this petition be attached hereto and form a part of this ordinance.

**SECTION 4:** This ordinance shall be in full force and effect upon passage and approval as provided by law.


PASSED: This 26 day of July, 1999

AYES: 4 NAYS: 1 ABSENT: 2 PASS: 0

APPROVED by me this 26 day of July, 1999

  
\_\_\_\_\_  
Mayor of the Village of Palatine

ATTESTED and FILED in the office of the Village Clerk this 26 day of July, 1999

  
\_\_\_\_\_  
Village Clerk

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**ORDINANCE #0-101-99**

**EXHIBIT "A"**

**ON FILE  
IN THE VILLAGE CLERK'S OFFICE**

Property of Cook County Clerk's Office

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THIS INSTRUMENT PREPARED  
BY AND RETURN TO:  
Richard H. Levy  
Schain, Firsel & Burney, Ltd.  
222 North LaSalle Street  
Suite 1910  
Chicago, Illinois 60601

<sup>P32</sup>  
**APPROVED**  
11/10/04

Property of Cook County Clerk's Office

## DECLARATION OF CONDOMINIUM OWNERSHIP AND OF EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS FOR THE ASPEN GROVE CONDOMINIUMS

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## TABLE OF EXHIBITS

EXHIBIT "A" - LEGAL DESCRIPTION OF THE PARCEL

EXHIBIT "B" - PLATS OF SURVEY OF THE PARCEL AND THE UNITS

EXHIBIT "C" - SCHEDULE OF PERCENTAGE OF INTERESTS IN  
COMMON ELEMENTS

EXHIBIT "D" - BY-LAWS

Property of Cook County Clerk's Office

**DECLARATION OF CONDOMINIUM OWNERSHIP  
AND OF  
EASEMENTS, RESTRICTIONS, COVENANTS AND BY-LAWS  
FOR  
THE ASPEN GROVE CONDOMINIUMS**

THIS DECLARATION made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 1998, by ASPEN GROVE, L.L.C., an Illinois limited liability company (hereinafter called "Declarant").

**WITNESSETH THAT:**

**WHEREAS**, Declarant is the legal titleholder of the real estate described in Exhibit "A" hereto ("Property"); and

**WHEREAS**, it is the desire and intention of Declarant to enable the "Property" (as hereinafter defined) to be owned by Declarant and by each successor in interest of the Declarant under that certain type or method of ownership commonly known as "CONDOMINIUM" and to submit the Property to the provisions of the Condominium Property Act of the State of Illinois, as amended from time to time; and

**WHEREAS**, Declarant has elected to establish, for the benefit of Declarant and for the mutual benefit of all present and future owners or occupants of the Property, or any part thereof, which shall be known as "The Aspen Grove Condominiums", certain easements and rights, in, under, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct and maintenance thereof; and

**WHEREAS**, Declarant has further elected to declare that the several owners, mortgagees, occupants and other persons acquiring any interest in the Property shall at all times enjoy the benefits of and hold their interest subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the proper administration of the Property and are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property.

**NOW, THEREFORE**, Declarant, as the legal titleholder of the Parcel hereinbefore described and for the purposes above set-forth, does hereby **MAKE AND PUBLISH THE DECLARATION AS FOLLOWS:**

**ARTICLE I**

**DEFINITIONS**

1. For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

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- Act:** The Condominium Property Act of the State of Illinois, as amended from time to time.
- Association:** The Aspen Grove Condominium Association, an Illinois Not-For-Profit corporation.
- Board:** The Board of Managers or the Board of Directors, as the case may be, of The Aspen Grove Condominium Association.
- Building:** A structure containing Units located on the Parcel, as more specifically described in Article II hereof.
- By-Laws:** The provisions for the administration of the Property attached as Exhibit "D" hereto, or as the same may be from time to time duly amended.
- Common Elements:** All portions of the Property except the Units, but including Limited Common Elements.
- Common Expenses:** The expenses of administration (including management and professional services), maintenance, operation, repair, replacement, and landscaping of the Common Elements; the cost of additions, alterations, or improvements to the Common Elements; the cost of insurance required or permitted to be obtained by the Board; utility expenses for the Common Elements; any expenses designated as Common Expenses by the Act, this Declaration, or the By-Laws; if not separately metered or charged to the Owners, the cost of waste removal, water, sewer, or other necessary utility services to the Condominium Property; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners, which shall be allocated to each Unit in the same ratio as the percentage of ownership in the Common Elements as set forth in Exhibit "C".
- Declaration:** This instrument (and all exhibits attached thereto) by which the Property is submitted to the provisions of the Condominium Property Act of the State of Illinois and such Declaration as from time to time amended. The By-Laws are embodied in and are a part of the Declaration.
- Declarant/ Developer:** Aspen Grove, L.L.C., an Illinois limited liability company
- First Mortgagee:** The holder of a bona fide first mortgage, first trust deed or equivalent security interest covering a Unit Ownership.
- Limited Common Elements:** A portion of the Common Elements so designated in the Declaration or the Plats as being reserved for the use of a certain Unit or Units to the exclusion of other Units.
- Majority:** With respect to Unit Owners means the Owners of more than fifty percent (50%) in the aggregate in interest of the



undivided Ownership of the Common Elements and any specified percentage of the Unit Owners means such percentage in the aggregate in interest of such undivided Ownership; with respect to the members of the Board of Managers, more than fifty percent (50%) of the total number of persons then serving on the Board pursuant to the By-Laws and any specified percentage of the members of the Board of Managers means that percentage of the total number of persons then serving on the Board pursuant to the By-Laws.

- Occupant:** Any Person, other than an Owner, in possession of a Unit.
- Owner:** The Person or Persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit Ownership.
- Parcel:** The lot or lots, tract or tracts of land described in Exhibit "A" attached hereto, which are being submitted to the provisions of the Condominium Property Act.
- Person:** An individual, corporation, partnership, trustee or other legal entity capable of holding legal title to real property.
- Plat:** The plat of survey attached as Exhibit "B" hereto, and such other plats as may be made a part hereof, which sets forth the measurements, elevations, and locations of the Property, and the location of the planes which constitute the perimeter boundaries of each Unit, a distinguishing number or other symbol to identify each Unit, and such other data as may be required by the Act.
- Property:** All the land, property and space comprising the Parcel, all improvements and structures erected, constructed or contained therein or thereon, including the Building, and all easements, licenses, permits, rights and appurtenances belonging thereto, and all fixtures, equipment and personal property intended for the mutual use, benefit or enjoyment of the Owners.
- Turnover Date:** Within sixty (60) days after seventy-five percent (75%) of the Units have been conveyed or three (3) years after date of recordation of this Declaration, whichever is sooner.
- Undivided Interest:** The percentage of ownership interest in the Common Elements appurtenant to a Unit as herein and hereafter allocated on Exhibit "C" hereto, and as Exhibit "C" may be amended from time to time.

**Unit:** Any part of the Property designed and intended for any type of independent use and which is designated on the Plat as a Unit.

**Unit Ownership:** A part of the Property consisting of the Unit and its Undivided Interest in the Common Elements.

**ARTICLE II**  
**UNITS**

1. **Description and Ownership.** The Units consist of dwelling units located within buildings located on the Parcel and are delineated on the Plats of Survey attached hereto and made a part of this Declaration as Exhibit "B".

It is understood that each Unit which is a dwelling unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof on Exhibit "B". The legal description of each Unit shall consist of the identifying number or symbol of each Unit, as shown on Exhibit "B". Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number or symbol as shown on Exhibit "B" and every such description shall be deemed good and sufficient for all purposes. An Owner may, at the Owner's expense, subdivide the Owner's residential Unit or combine the Owner's contiguous residential Units in accordance with the requirements of this Declaration, the Act and any other applicable law, statute, ordinance, rule and regulation. All Owners are required to obtain insurance to cover the Owner's personal possessions, the Owner's personal liability and the Owner's responsibilities under this Declaration.

2. **Certain Structures Not Constituting Part of a Unit.** No Owner shall own any pipes, wires, conduits, chutes, flues, ducts, bearing walls, bearing columns, public utility lines or other structural components or apparatus running through a Unit and serving more than that Unit, except as a tenant in common with all other Owners.

**ARTICLE III**

**COMMON ELEMENTS**

1. **Description.** The Common Elements shall consist of all portions of the Property except the Units. Without limiting the generality of the foregoing, the Common Elements shall include the entrances and exits, including lobbies and common stairways used by several Units, exterior windows, storage lockers, heating, ventilation and air conditioning system for the Building, stairwells, roof, roof deck, structural parts of the Building, pipes, ducts, flues, chutes, conduits, wires and other utility installations to the outlets, and such component parts of walls, floors and ceilings as are not located within the Units.

2. **Ownership of Common Elements.** Each Owner shall own an undivided interest in the Common Elements as a tenant in common with all other Owners, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for all purposes incident to the use and occupancy of each Unit for residential

purposes, and such other purposes permitted by this Declaration, which right shall be appurtenant to and run with each Unit. The extent or amount of such ownership shall be expressed by a percentage amount and, once determined, shall remain constant, and may not be changed without unanimous approval of all Owners except as otherwise provided by this Declaration or the Act. Declarant has so determined each Unit's corresponding percentage of ownership in the Common Elements as set forth in Exhibit "C" attached hereto. Each Owner's portion of the votes in the Association and each Owner's allocable share of the Common Expenses of the Association shall be in the same ratio as the percentage of ownership in the Common Elements of such Owner as set forth in Exhibit "C" attached hereto.

3. **Limited Common Elements.** Except as otherwise provided herein, the Limited Common Elements shall consist of all portions of the Common Elements set aside and allocated for the restricted use of a particular Unit or Units, including but not limited to balconies and terraces.

#### ARTICLE IV

#### GENERAL PROVISIONS AS TO UNITS AND COMMON ELEMENTS

1. **Submission of Property to the Condominium Property Act.** The Property is hereby submitted to the provisions of the Act.

2. **No Severance of Ownership.** No Owner shall execute any deed, mortgage, lease or other instrument affecting title to a Unit Ownership without including therein both the Owner's interest in the Unit and the Unit's corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

3. **Easements.**

(a) **Encroachments.** In the event that, by reason of the construction, repair, reconstruction, settlement or shifting of any building, any portion of the Common Elements encroaches or shall hereafter encroach upon any portion of any Unit, or any portion of any Unit encroaches or shall hereafter encroach upon any portion of the Common Elements or any other Unit, or, if by reason of the design or construction of any Unit, it shall be necessary for an Owner to use or occupy any portion of the Common Elements for any reasonable use appurtenant to that Unit, which use or occupancy will not unreasonably interfere with the use or enjoyment of the Common Elements by other Owners, or, if by reason of the design or construction of utility and ventilation systems, any mains, pipes, ducts or conduits serving more than one Unit encroach or shall hereafter encroach upon any portion of any Unit, then in all such cases aforesaid, valid mutual easements for the maintenance of such encroachment and for such use and occupancy of the Common Elements are hereby established and shall exist for the Owners of such Units or the Common Elements, as the case may be, so long as all or any part of the Unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Owner if such encroachment or use is detrimental to or interferes with

the reasonable use and enjoyment of the Property by the other Owners or if such encroachment or use occurred or is occasioned due to the intentional, willful or negligent conduct of any Owner or Occupant or the agent of either.

(b) **Utility and Cable Television Easements.**

(i) Ameritech, Commonwealth Edison Company, Peoples Gas Company, the Village of Palatine, Illinois, and all other suppliers of utilities serving or proposing to serve the Property or any portion thereof are hereby granted the right to install, lay, construct, operate, maintain, renew, alter, remove and replace conduits, cables, mains, pipes, wires, transformers, switching apparatus and other equipment, and water, sewer and other utilities, into, over, under, on and through the Common Elements for the purpose of providing utility services to the Property or any portion thereof. The Board may hereafter grant additional utility easements for the benefit of the Property over, under, along and on any portion of the Common Elements, and each Owner hereby grants to the Board an irrevocable power of attorney coupled with an interest to execute, acknowledge, register and record for and in the name of all the Owners, such instruments as may be necessary or appropriate to effectuate the foregoing. Easements are also hereby declared and granted to the Developer or its assignee to install, lay, construct, operate, maintain, renew, repair and replace any conduits, cables, pipes, wires or other equipment or components of a community antenna television service system into, over, under, on and through the Common Elements for the purpose of providing such television service to the Property or to other property.

(ii) Upon the majority vote of more than fifty percent (50%) of the total votes of the Board of Managers at a meeting duly called for such purpose, the Board may grant an easement for the installation of such additional utilities.

(c) **Easements To Run With The Land.** All easements and rights described herein are easements appurtenant, running with the land and, so long as the Property is subject to the provisions of this Declaration, shall remain in full force and effect, and shall inure to the benefit of and be binding on Declarant, the Developer, their respective successors and assigns, and any Owner, Occupant, purchaser, mortgagee and other Person having an interest in the Property, or any portion thereof. Reference in any deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees thereof as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

4. **Separate Real Estate Taxes.** Real estate taxes, special assessments, and any other special taxes or charges of the State of Illinois or any duly authorized subdivision or agency thereof, are to be separately taxed to each Owner for his Unit Ownership, as provided in the Act. In the event that for any year such taxes are not separately taxed to each Owner, then, where the bill affects the Property as a whole or portions of the Common Elements or the Units, then each Owner shall pay his proportionate share thereof in accordance with his Undivided Interest.

Upon the affirmative vote of not less than a majority of the Voting Members, the Board, on behalf of all Owners, shall have the authority to seek relief for the Owners from any such taxes, special assessments or charges, and any expenses incurred in connection therewith shall be Common Expenses.

**ARTICLE V**

**MAINTENANCE, ALTERATIONS, DECORATING**

1. **Maintenance, Repairs and Replacements.** Each Unit Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Unit. Maintenance, repairs and replacements of the Common Elements shall be furnished by the Board as part of the Common Expenses, subject to the rules and regulations of the Board.

The Board may cause to be discharged any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or Common Elements. When less than all the Unit Owners are responsible for the existence of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses (including attorneys' fees) incurred by reason of such lien.

Whenever the Board shall determine, in its discretion, that any maintenance or repair of any Unit is necessary to protect the Common Elements or any other portion of the Building, the Board may cause a written notice of the necessity for such maintenance or repair to be served upon such Unit Owner, which notice may be served by delivering a copy thereof to any Occupant of such Unit or by mailing the same by regular and certified or registered mail addressed to the Unit Owner at the Unit. Notice is deemed served when mailed and need not be actually received. If such Unit Owner fails or refuses to perform any such maintenance or repair within a reasonable time as stated in the notice (or any extension thereof approved by the Board), the Board may cause such maintenance and repair to be performed at the expense of such Unit Owner. If any Unit Owner shall fail or refuse to make any such payment when due, the amount thereof shall constitute a lien and be defined as an assessment or lawfully agreed upon charge against said Owner's Unit as provided in the Act.

If, due to the act or neglect of a Unit Owner, or a member of his family or household pet or of a guest or authorized occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to any Unit or Units or maintenance, repairs or replacement shall be required which would otherwise be a Common Expense, then such Unit Owner shall pay for such damage, and such maintenance, repairs and replacements, as may be determined by the Board.

The Board shall have exclusive authority to take, or refrain from taking, any action pursuant to this Article V, Section 1. All expenses which, pursuant to this Section 1, are chargeable to any Unit Owner, may be specially assessed to such Unit Owner and shall be payable by such Unit Owner as prescribed by the Board. If any Unit Owner shall fail or refuse to make any such payment when due, the amount thereof shall constitute a lien and be deemed an assessment or lawfully agreed upon charge against said Owner's Unit as provided in the Act.



2. **Limited Common Elements.** Any charge or expense in connection with expenditures for the Limited Common Elements shall be assessed only against that Unit to which such Limited Common Elements are assigned.

3. **Alteration, Additions or Improvements.** No alterations of any Common Elements, or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. Any Unit Owner may make alterations, additions and improvements within his Unit with written approval of the Board and such Unit Owner shall be responsible for any damage to other Units, the Common Elements, or the Property as a result of such alterations, additions or improvements. Nothing shall be done in any Unit, or in, on, or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building.

4. **Decorating.** Each Unit Owner shall furnish and be responsible for, at his own expense, all of the decorating within his own Unit, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. The use of and the covering of the interior surface windows, whether by draperies, shades or other items, visible on the exterior of the Property, shall be subject to the rules and regulations of the Board. Decorating of the Common Elements (other than interior surfaces within the Units as above provided), and any redecorating of Units to the extent made necessary by any damage to existing decorating of such Units caused by maintenance, repair or replacement work on the Common Elements by the Board, shall be furnished by the Board as part of the Common Expenses.

## ARTICLE VI

### COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

The Units and Common Elements shall be occupied and used as follows:

1. **Use.** No part of the Property shall be used for other than housing and related common purposes for which the Property was designed. Each Unit shall be used as a residence and for no other purposes. Camping and other recreational vehicles and related equipment and commercial vehicles larger than one-ton pickup trucks may not be parked or stored in any portion of the Common Elements. No maintenance work shall be performed on any vehicles in any portion of the Common Elements.

2. **Restrictions.** There shall be no obstruction of the Common Elements nor shall anything be stored in, on, under or above the Common Elements (except in areas designed for such purpose) without the prior written consent of the Board, or except as hereinafter expressly provided. Owners shall be obligated to maintain and keep in good order and repair their respective Units.

3. **Prohibited Use.** Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance without the prior written consent of the Board. Owners shall not permit anything to be done or kept in their respective Units or in the Common Elements which will result in the cancellation of insurance or which would be in violation of any law. No waste shall be committed in the Common Elements.

4. **Owner's Insurance.** Owners shall be individually responsible for insuring their personal property in their respective Units, their personal property stored elsewhere on the Property and their personal liability.

5. **Exterior Surfaces.** Owners shall not cause or permit anything to be placed on outside walls, doors and windows of the Building, and no sign, awning, canopy, shutter, air conditioning unit, radio or television antenna shall be affixed to or placed in, through or upon the exterior walls, doors, windows or roof or any part thereof, without the prior consent of the Board.

6. **Pets.** No animals of any kind shall be raised, bred or kept in any Unit or in the Common Elements; except that one (1) cat (or other usual household pet other than a dog) may be kept in Units; and subject to rules and regulations adopted by the Board; provided that they are not kept, bred or maintained for any commercial purposes; and provided further that any such pet kept in violation of rules and regulations adopted by the Board or causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon ten (10) days' written notice from the Board.

7. **Nuisances.** No noxious or offensive activity shall be conducted in any Unit or in the Common Elements, nor shall anything be done thereon, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or Occupants.

8. **Structural Integrity.** Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building, except as is otherwise provided herein.

9. **Unsignifness.** No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of litter, rubbish, debris and other unsightly materials.

10. **Personal Effects.** There shall be no unattended leaving or storage of baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements, except as may be permitted under rules and regulations adopted by the Board. Notwithstanding the preceding sentence, Unit Owners shall be allowed to keep outdoor furniture and planters on their balconies and roof terraces which are Limited Common Elements appurtenant to their respective Units so long as such furniture and planters are maintained in a good and sightly condition.

11. **Commercial Activity.** No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted in any Unit or the Common Elements except that Unit Owner may conduct his/her lawful business from the Unit; provided such Unit Owner does not advertise the Unit as a place of business or cause said residential Unit to be used for retail sales, manufacturing, distribution or warehousing. In addition, Unit Owner shall not construct or maintain a waiting room which is outside his/her residential Unit so that all customers, clients or other persons waiting for Unit Owner shall be confined to the boundaries of the Unit.

12. **"For Sale" and "For Rent".** No "For Sale" or "For Rent" signs, advertising or other displays in excess of five (5) square feet shall be maintained or permitted on any

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part of the Property. Notwithstanding the foregoing, the right is reserved by the Developer or its agents to place and maintain on the Common Elements or any Unit it owns, as long as Developer is engaged in sales or leasing activities in connection with the Property, sales models, a sales or leasing office, advertising signs or banners and lighting in connection therewith, at such locations and in such forms as the Developer shall determine.

13. **Board Consent.** Nothing shall be altered or constructed in or removed from the Common Elements, except upon written consent of the Board.

14. **Developer Rights.** Notwithstanding any provision hereof to the contrary, at all times and from time to time prior to the sale and Closing of the last Unit in the Property, the Developer, the Declarant, beneficiaries of Declarant, their agents, successors and assigns, hereby reserve the right: (a) to lease or sell such Units as the Developer shall determine; (b) to erect and maintain on the Property all advertising signs, banners, lighting and other sales devices for the purpose of aiding the sale or leasing of the Units in the Property; (c) to maintain sales and business offices on the Property to facilitate the sale or leasing of Units therein; and (d) to utilize the Common Elements for ingress, egress and parking in connection with the sale and leasing of Units in the Property.

15. **Exceptions.** The Unit restrictions in Paragraphs 1 and 11 of this Article shall not, however, be construed in such a manner as to prohibit an Owner from: (a) maintaining a personal professional library therein; (b) keeping personal business or professional records or accounts therein; or (c) handling personal business or professional business calls or correspondence therefrom, or inviting personal business or professional clients therein, so long as the Unit is not advertised to the general public in any manner as a business establishment. Such uses are expressly declared customarily incident to the principal use for residential purpose and not in violation of Paragraphs 1 or 11 of this Article.

16. **Leases.** Any lease or rental agreement relating to a Unit must be in writing and shall be subject to all the terms, conditions and requirements of the Declaration, By-Laws and Rules and Regulations of the Association. No Unit may be leased or rented for a period less than six (6) months. The Owner shall provide a copy of the lease or rental agreement to the Board no later than the date of occupancy or ten (10) days after the lease is signed, whichever occurs first. The Association is hereby expressly deemed to be a third party beneficiary of any such lease; and any violation of the Declaration, By-Laws or Rules and Regulations shall be deemed a default under such lease entitling the Association to exercise any and all remedies under the lease or available at law or equity, regardless of the Owner's action or inaction in response to such default. Notwithstanding anything to the contrary contained herein.



ARTICLE VII

DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDING

1. **Sufficient Insurance.** In the event the improvements forming a part of the Property, or any portion thereof, including any Unit, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds shall be applied by the Board or the payee of such insurance proceeds in payment thereof. This Paragraph shall not apply to the application of any proceeds of any policy or policies insuring against the loss of or damage to the contents of a Unit, which policy or policies were maintained by the Owners of the Unit.

2. **Insufficient Insurance.** In the event the Property or the improvements thereon so damaged or destroyed are not insured against the peril causing the loss or damage, or the insurance proceeds are not sufficient to pay the cost of repair, restoration or reconstruction, and the Owners and all other parties in interest do not voluntarily make provision for reconstruction of the improvements within one hundred and eighty (180) days after the damage or destruction, then the provisions of the Act in such event shall apply.

3. **Repair, Restoration or Reconstruction.** Repair, restoration or reconstruction of the improvements, as used in this Article, means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and the Common Elements having the same vertical and horizontal boundaries as before. Except to the extent otherwise provided by the Act, Section 7(b) of the By-Laws and Paragraphs 1 and 2 of this Article VII, the Association shall not use hazard insurance proceeds for other than repair, replacement or reconstruction purposes, unless Owners (other than the Declarant and Developer) having two-thirds (2/3) or more of the total votes in the Association, [i.e. having two-thirds (2/3) or more of the total percentage interest in the Common Elements as set forth in Exhibit "C"], give their prior written consent thereto.

ARTICLE VIII

INTENTIONALLY DELETED

ARTICLE IX

ASSESSMENTS-MAINTENANCE FUND

1. **Annual Budget.**

(a) **Preparation and Passage.** Each year on or before November 1, the Board shall estimate in the form of a detailed budget the total amount necessary to pay the cost of wages, materials, insurance, services, supplies and fees which will be required during the ensuing calendar/fiscal year for the

acquisition of all such goods and services, together with a reasonable amount determined by the Board for a reserve for contingencies and replacements (the "estimated cash requirement"). The proposed budget shall set forth each Owner's common expense assessment. The estimated cash requirement shall be assessed to Owners according to each Owner's percentage of ownership in the Common Elements as set forth in Exhibit "C" attached hereto. Each Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board, a copy of the proposed annual budget together with an indication of which portions are intended for capital expenditures or repairs or payment of real estate taxes. Each Owner shall receive notice, in the same manner as is provided in the Act for membership meetings, of any meeting of the Board concerning the adoption of the proposed annual budget or of any subsequent increase or decrease therein, or establishment of an assessment. In the event any budget that is adopted differs from the proposed budget, then immediately after adoption, the Board shall distribute to each Owner a detailed annual budget as adopted by the Board, setting forth with particularity all anticipated Common Expenses by category as well as all anticipated assessments and other income.

(b) **Veto.** If an adopted budget requires assessment against the Owners in any fiscal/calendar year exceeding one hundred fifteen percent (115%) of the assessments for the preceding year, the Board, upon written petition by Owners holding twenty percent (20%) of the votes in the Association [i.e. having twenty percent (20%) or more of the total percentage interests in the Common Elements as set forth in Exhibit "C"], filed within fourteen (14) days of the Board's adoption, shall call a meeting of the Association within thirty (30) days of the date of filing of the petition to consider the budget. Unless a majority of votes (i.e. a majority of the percentage interests in the Common Elements as set forth in Exhibit "C") of the Owners are cast at such meeting to reject the budget, it is ratified, whether or not a quorum is present. In determining whether assessments exceed one hundred fifteen percent (115%) of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Property, and anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, shall be excluded from the computation.

(c) **Payment.** On or before January 1st of the ensuing year, and on the first (1st) of each and every month of said year, each Owner, jointly and severally, if there be more than one (1) Owner for any Unit, shall be personally liable for and obligated to pay to the Board as it may direct, one-twelfth (1/12) of his (or their) total assessment made pursuant to this Paragraph 1.

(d) **Accounting.** On or before sixty (60) days after the end of the fiscal year the Board shall supply to all Owners an itemized accounting of the Common Expenses for the preceding year actually incurred or paid, together with an indication of which portions were for capital expenditures or repairs or payment of real estate taxes, with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves. Such accounting may be prepared by a certified public accountant. Any amount accumulated in excess of the amount required for expenditures shall be transferred to the capital reserve account.

(e) **Foreclosure.** The purchaser of a Unit at a judicial foreclosure sale, or a mortgagee who receives title to a Unit by deed in lieu of foreclosure or judgment by common law strict foreclosure, or otherwise takes possession pursuant to court order under the Illinois Mortgage Foreclosure Law, shall have the

duty to pay the Unit's proportionate share of the Common Expenses for the Unit assessed from and after the first (1st) day of the month after the date of the judicial foreclosure sale, delivery of the deed in lieu of foreclosure, entry of a judgment in common law strict foreclosure, or taking possession pursuant to any court order.

2. **Reserves.**

(a) **Maintenance.** The Board, at its option and in its sole discretion, shall accumulate and maintain a reasonable reserve for contingencies and replacements. The reserve shall include funds to cover any deductible amounts contained in insurance policies procured by the Board pursuant to the Declaration or By-Laws. Extraordinary or other expenditures not included in the annual budget which may become necessary during the year shall be charged first against such reserve.

(b) **Special Assessments.** If the reserves and the budgeted estimated cash requirements prove inadequate for any reason, including non-payment of any Owner's assessment, the Board may at any time levy a supplemental assessment, which shall be assessed to the Owners according to their percentage of ownership in the Common Elements. Prior to the levying of such supplemental assessment, each Owner shall receive notice, in the same manner as provided for membership meetings, of any meeting of the Board concerning the adoption of such supplemental assessment. Subsequent to the Board's adoption of the supplemental assessment, the Board shall serve notice of such supplemental assessment on all Owners by a written statement setting forth the amount and reasons therefor. Such supplemental assessment shall become effective with the next succeeding monthly common expense assessment payment which is due more than ten (10) days after the delivery or mailing of such notice of supplemental assessment; provided that any such supplemental assessment shall be subject to approval by the affirmative vote of the Owners having at least two-thirds (2/3) of the total votes [i.e. two-thirds (2/3) of the total percentage interests in the Common Elements as set forth in Exhibit "C"] at a meeting of the Association duly called for the purpose for approving such supplemental assessment if it involves proposed expenditures resulting in a total payment assessed to a Unit equal to the greater of five (5) times the Unit's most recent common expense assessment calculated on a monthly basis. All Owners shall be personally liable for and obligated to pay their respective adjusted monthly amounts.

3. **Initial Budget.** When the first elected Board hereunder takes office, it shall determine the estimated cash requirement, as hereinabove defined, for the period commencing thirty (30) days after such election and ending at the end of the then existing fiscal year in which such election occurs. Assessments shall be levied against the Owners during the period provided in this Article.

4. **Failure to Prepare Annual.** The failure or delay of the Board to prepare or serve the annual or adjusted estimated budget on an Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay his share of the Common Expenses, as herein provided, whenever the same shall be determined. In the absence of any annual budget, each Owner shall continue to pay the monthly common expense assessment at the rate established for the immediately preceding period until the new annual budget is adopted and the new monthly common expense assessment thereunder is effective. Upon the adoption of the budget, each Owner will be personally liable for the monthly common expense assessment payments thereunder.

5. **Books and Records.**

(a) **Maintenance.** The Board or its managing agent shall maintain the following records of the Association available for examination and copying at convenient hours of weekdays by the Owners, or their mortgagees, and their duly authorized agents or attorneys.

(i) Copies of the recorded Declaration, By-Laws, other condominium instruments and any rules and regulations adopted by the Association or the Board. Prior to the organization of the Association, the Developer shall maintain and make available the records set forth in this subparagraph (i) for examination and copying.

(ii) Detailed accurate records, in chronological order, of the receipts and expenditures affecting the Common Elements, specifying and itemizing the maintenance and repair expenses of the Common Elements and any other expense incurred, and copies of all contracts, leases or other agreements entered into by the Association.

(iii) The minutes of all meetings of the Association and the Board which shall be maintained for a period of not less than seven (7) years.

(iv) Ballots and proxies related thereto for all elections to the Board and for any other matters and proxies related thereto voted on by the Owners, which shall be maintained for a period of not less than one (1) year.

(v) Such other records of the Association as are available for inspection by members of a Not-For-Profit corporation pursuant to Section 107.75 of the General Not-For-Profit Corporation Act of 1986, as from time to time amended.

(b) **Notice.** Upon ten (10) days' notice to the Board or managing agent (if any) and payment of a reasonable fee, an Owner shall be furnished a statement of said Owner's account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

6. **Status of Funds.** All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use and account of all the Owners in the percentages set forth in Exhibit "C"; provided, however, that sums deposited by any Owner as a capital contribution to the Association, or denominated as such by the Board, and reserves established pursuant to this Article, shall be deemed contributions to the capital of the Association and shall be held and administered as such unless and until the Board shall otherwise determine.

7. **Non-Payment.**

(a) **Late Charges, Collection and Foreclosure of Lien.** If an Owner shall fail to pay his monthly Common Expense assessment or any other charges when due, he shall be charged a late charge as determined by the Board for each thirty (30) day period (or portion thereof) during which said amounts remain



unpaid. If an Owner is in default in the monthly payment of the aforesaid Common Expense assessment or any other charges for thirty (30) days, the Board may bring suit for and on behalf of the Association and as representative of all Owners, to enforce collection thereof or to foreclose the lien therefor as hereinafter provided; and there shall be added to the amount due the costs of said suit, and other fees and expenses together with legal interest and reasonable attorneys' fees to be fixed by the Court.

(b) **Lien.** To the extent permitted by any decision, statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided shall be and become a lien or charge against the Unit Ownership of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Such lien shall take effect and be in force when and as provided in the Act; provided, however, that encumbrances owned or held by any bank, insurance company, savings and loan association or other lender shall be subject as to priority to the lien for unpaid Common Expense assessments which become due and payable on or subsequent to the date on which the encumbrancer either takes possession of the Unit, accepts a conveyance of any interest in the Unit Ownership or causes a receiver to be appointed in a suit to foreclose its lien; and provided further that any First Mortgagee who obtains title to a Unit Ownership pursuant to the conditions provided in the mortgage or foreclosure of the mortgage, will not be liable for such Unit's unpaid assessments and charges which accrue prior to the acquisition of title to such Unit Ownership as long as the Association is included as a party in any foreclosure action. Any second mortgage shall at all times be subordinate in lien rights to the Association's lien for assessments, whether or not the Association has recorded a document evidencing such lien.

(c) **Cumulative Rights.** In addition to the foregoing, the Board or its agents shall have such other rights and remedies to enforce such collection as shall otherwise be provided or permitted by law from time to time. Without limiting the generality of the foregoing, if any Owner shall fail to pay his proportionate share of the Common Expenses or of any other expense required to be paid hereunder when due, such rights and remedies shall include (1) the right to enforce the collection of such defaulting Owner's share of such expenses together with interest thereon at the maximum rate permitted by law, late charges, and all fees and costs (including reasonable attorneys' fees whether or not awarded by a court) incurred in the collection thereof; and (2) the right to take possession of such defaulting Owner's interest in the Property, to maintain for the benefit of all the other Owners an action for possession in the manner prescribed by Article IX of the Illinois Code of Civil Procedure (735 I.L.C.S. 5/9-101 et seq.), as may from time to time be amended, and to execute leases of such defaulting Owner's interest in the Property and applying the rents derived therefrom against such expenses and other monetary obligations of the defaulting Owner.

(d) **Forbearance of Assessments.** The Association shall have no authority to forbear the payment of assessments by any Owner.

8. **Non-Use or Abandonment.** No Owner may waive or otherwise escape liability for assessments provided for herein by nonuse of the Common Elements or abandonment of his Unit. Any claim by an Owner against the Association shall be by separate action and shall not be used as a defense or counterclaim to an action by the

Association to collect assessments.

9. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage placed at any time on a Unit by a bona fide lender. Each holder of a first mortgage on a Unit who obtains title or comes into possession of that Unit pursuant to the remedies provided in the mortgage, foreclosure, or any purchaser at a foreclosure sale, will take the Unit free of any claims for unpaid assessments or charges which become payable prior to the first to occur of acquisition of title, possession or the filing of a suit to foreclose the mortgage.

10. **Initial Capital Contribution.** Upon the closing of the sale of each Unit by Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Association in an amount equal to two (2) months' Annual Assessment at the rate in effect with respect to the Unit as of the closing, which amount shall be held and used by the Association for its working capital needs.

## **ARTICLE X**

### **REMEDIES**

1. **Abatement and Enjoinment.** The violation of any rule or regulation adopted by the Board, or the breach of any restriction, covenant or provision herein contained, shall give the Board the right, in addition to the rights set forth in the next succeeding Paragraph: (a) to enter upon that part of the Property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Developer, the Declarant, its beneficiaries, successors or assigns, the Board and its agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise together with interest thereon at the highest legal rate per annum until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of such defaulting Owner's share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Owner and upon all of such defaulting Owner's personal property in the Unit or located elsewhere on the Property. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

2. **Involuntary Rights.** If any Owner (either by such Owner's own conduct or by the conduct of any Occupant of such Owner's Unit) shall violate any of the restrictions, covenants or provisions of this Declaration or the rules and regulations adopted by the Board, and such violation shall continue for ten (10) days after notice in writing from the Board, or shall re-occur at any time after such notice, then the Board shall have the power to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of said defaulting Owner to continue as an Owner and to continue to occupy, use or control the defaulting Owner's Unit, and, thereupon, an action in equity may be filed by the members of the Board against the Owner or Occupant for a decree of mandatory injunction against the Owner or Occupant or, in the alternative, a decree declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by such Owner on account of the breach of covenant, and ordering that the right, title and interest of the owner in the Property shall be sold (subject to the lien of any existing

mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Owner from re-acquiring such Owner's interest in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding and sale, whether or not awarded by a Court, and all such items shall be taxed against the defaulting Owner in such decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments and charges hereunder or any liens, shall be paid to the Owner. Upon the confirmation of such sale, the purchaser thereat shall thereupon be entitled to a deed to the Unit and to immediate possession of the Unit sold and may apply to the Court for a writ of assistance for the purpose of acquiring such possession. It shall be a condition of any such sale, and the decree shall provide, that the purchaser shall take the interest in the Property sold subject to this Declaration.

**ARTICLE XI**

**RIGHTS OF FIRST MORTGAGEES**

1. **First Mortgagee Rights.** Upon specific written request to the Board, a First Mortgagee or its servicer, or the insurer or any guarantor of a mortgagee shall receive the following as designated in the request:

(a) **Budgets and Assessments.** Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Unit covered by the First Mortgagees' mortgage;

(b) **Financial Statements.** Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners;

(c) **Notices.** Copies of notices of meetings of the Owners and the right to be represented at any such meetings by a designated representative;

(d) **Amendments.** Written notice of the decision of the Owners to make any material amendment to this Declaration and By-Laws;

(e) **Damages.** Written notice of substantial damage to or destruction of any Unit (in excess of One Thousand and 00/100 Dollars (\$1,000.00)) covered by the First Mortgagee's mortgage, or any part of the Common Elements (in excess of Ten Thousand and 00/100 Dollars (\$10,000.00));

(f) **Condemnation.** Written notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;

(g) **Default.** Written notice of any default of the Owner of the Unit which is subject to the First Mortgagee's mortgage, where such default is not cured by Owner within thirty (30) days after the giving of Notice by the Association to the Owner of the existence of the default;

(h) **Books and Records.** The right to examine the books and records

of the Association at any reasonable time and, if and to the extent that no audited financial statement is available, the First Mortgagee or its servicer shall have the right to have an audited statement prepared at its own expense;

(i) **Management.** The Association's termination of professional management and assumption of self-management of the Property;

(j) **Delinquency.** Written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage;

(k) **Insurance.** Written notice of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(l) **Action.** Written notice of any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

The request of a First Mortgagee or its servicer, or the insurer or any guarantor of a mortgage shall state both the name and address of the First Mortgagee or its servicer, insurer or guarantor (as the case may be), shall specify which of the above information it desires to receive, shall indicate the address to which any notices or documents shall be sent by the Association and shall identify the Unit number or address of the Unit on which it has the mortgage. Failure of the Association to provide any of the foregoing to a First Mortgagee who has made a proper request therefor shall not affect the validity of any action which is related to any of the foregoing. The Association need not inquire into the validity of any request made by a First Mortgagee, servicer, insurer or guarantor hereunder and in the event of multiple requests from purported First Mortgagees, servicers, insurers or guarantors of the same Unit, the Association shall honor the most recent request received.

**ARTICLE XII**

**DEVELOPER'S RESERVED RIGHTS**

1. **In General.** In addition to any rights or powers reserved or granted to the Developer under the Act, this Declaration or the By-Laws, the Developer shall have the rights and powers set forth in this Article. In the event of a conflict between the provisions of this Article and any other provisions of this Declaration or the By-Laws, the provisions of this Article shall govern. Except as otherwise provided in this Article, Developer's rights under this Article shall terminate at such time as the Developer is no longer vested with or controls title to a Unit.

2. **Promotion Effort.** Developer shall have the right, in its discretion, to maintain on the Parcel model Units, sales and leasing offices, displays, signs and other forms of advertising and, to the extent not prohibited by law, to come upon any portion of the Property for the purpose of showing the Property to prospective purchasers or lessees of Units, all without the payment of any fee or charge whatsoever. The Developer shall have a non-exclusive access easement over and across the walkways located on the Property for ingress and egress in order to exercise the rights reserved under this Section. The Developer shall have the right and power to sell or lease a Unit to whomever it chooses on whatever terms it, in its sole discretion, shall deem appropriate.



3. **Control of Board.** Until the initial meeting of the Owners (which shall occur no later than sixty (60) days after the Turnover Date) and the election of the initial Board as provided for in the By-Laws, the rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board by the Act, this Declaration or the By-Laws shall be held and performed by the Developer. The Developer may hold and perform such rights and obligations, through the Board which, prior to the initial meeting, shall consist of three (3) individuals designated by the Developer from time to time. If the initial Board of Directors is not elected by the Owners at the time so established, the Developer or Directors designated by the Developer shall continue in office for a period of thirty (30) days whereupon written notice of resignation shall be sent to all Unit Owners entitled to vote at such election. Prior to the Turnover Date, Developer may appoint from among the Owners three (3) non-voting counselors to the Board, who shall serve at the pleasure of Developer.

4. **Dedication Rights Reserved.** Developer hereby reserve the right at their sole discretion to dedicate or otherwise convey portions of the Property (but not those portions on which the Building is situated) to any public agency or governmental authority or quasi-public utility for purposes of streets, roads, roadways and utilities, and right-of-way and easements therefor. Such right to make such dedications or conveyances shall not require the consent, approval or signatures of either the Board or any Unit Owner, and such dedication or conveyance shall be considered fully accomplished and conclusively binding upon each of said Unit Owners and upon the Association when set forth in writing or in a Plat of Dedication executed by the Developer which has been recorded in the office of the Recorder of Deeds of Cook County, Illinois, provided, however, that nothing in this paragraph shall be construed to in any manner require or obligate Developer to make any such conveyance or dedication.

In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby granted to the Developer, and each of them singly, as agent and attorney-in-fact to make such dedications or conveyances. Each deed, mortgage, trust deed or other instrument with respect to a Unit and the acceptance thereof shall be deemed a grant and acknowledgment of and consent to such power to each of said attorney-in-fact and shall be deemed to reserve to each of them the foregoing powers and rights.

### **ARTICLE XIII**

#### **GENERAL PROVISIONS**

1. **Provisions of the Declarant and Developer.** Until such time as the initial Board provided for in this Declaration is formed, the Declarant and the Developer shall perform the powers, rights, duties and functions of the Board.

2. **Enforcement.** In addition to all other rights herein granted to the Association, the Association may enforce the provisions of this Declaration and the Articles of Incorporation, By-Laws and rules and regulations of the Association by any proceeding in law or in equity against any person or persons violating or attempting to violate any such provisions. All rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, and failure of the Association to enforce any such provisions shall in no way be deemed a waiver of the right to do so thereafter. All expenses incurred by the Association in connection with any such proceedings, including court costs and attorneys' fees, together with interest thereon at nine percent (9%) per

annum, shall be charged to and assessed against any Owner violating any such provisions and shall be added to and deemed a part of his assessment and constitute a lien on his Lot and enforceable as provided in Article XIII. If any Owner, or his guests, violates any provision of this Declaration, the Articles of Incorporation, the By-Laws or the rules and regulations of the Association, the Board may, after affording the Owner an opportunity to be heard, levy a reasonable fine against such Owner, and such fine shall be added to and deemed a part of his assessment and constitute a lien on his Unit and be enforceable as provided in Article XIII.

3. **Insurance Proceeds.** In the event of (a) any distribution of any insurance proceeds hereunder as a result of substantial damage to, or destruction of, any part of the Property or (b) any distribution of the proceeds of any judgment or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Property, any such distribution shall be made to the Owners and their respective First Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the First Mortgagee of a Unit with respect to any such distribution to or with respect to such Unit; provided that nothing in this Paragraph shall be construed to deny to the Association the right to apply any such proceeds to repair or replace damaged portions of the Property or to restore what remains of the Property after condemnation or taking by eminent domain of a part of the Property.

4. **Special Amendment.** Declarant and Developer reserve the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans' Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Units, (c) to bring this Declaration into compliance with the Act, or (d) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, an irrevocable power coupled with an interest is hereby reserved and granted to the Declarant and Developer, severally, to vote in favor of, make, consent to, execute and record a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, execute and record Special Amendments. The right of the Declarant and Developer to act pursuant to rights reserved or granted under this Paragraph shall terminate five (5) years from such time as the Declarant and Developer no longer holds or controls title to a Unit.

5. **Waiver of Claims.** Each Owner hereby waives and releases any and all claims which such Owner may have against any other Owner, Occupant, the Association, its officers, members of the Board, the Declarant and its beneficiaries, the Developer, the managing agent, if any, and their respective employees and agents, for damage to the Common Elements, the Units, or to any personal property located in the Units or Common Elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

6. **Damages.** Each Owner shall be responsible for any damages to the Common Elements or to any Unit or Units and also for the maintenance, repairs or replacements caused by or resulting from his willful or wanton misconduct or his negligent

act or omission, or the willful or wanton misconduct or negligent act or omission of a member of his family, his household pet, his guests, visitors or his invitees or of an Occupant of his Unit, household pets, guests, visitors or invitees of an Occupant of his Unit.

7. **Notices.** Notices provided for in this Declaration and in the Act shall be in writing, and shall be addressed to the Board or Association, or any Owner, as the case may be, at the address of the Unit, or at such other address as herein provided. The President of the Association is hereby designated as the person to mail and receive all notices as provided for in the Act and in this Declaration; provided, however, that the Board may designate a different address for notices to the Board or the Association by giving written notice of such change of address to all Owners. Any Owner may also designate a different address for notices by giving written notice of such change of address to the Board. Notices to Unit Owners shall be deemed delivered when mailed by United States mail, or when delivered in person, or, if addressed to an Owner, when deposited at the door of the Owner's Unit. Notices to the Board or to the Association shall be deemed delivered when mailed by United States registered mail to the Board or Association.

8. **Notices to Deceased Owner.** Notices required to be given any devisee, heir or personal representative of a deceased Owner may be delivered either personally or by mail to such party at the address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

9. **Conveyance.** Each grantee of the Declarant and each subsequent grantee by the acceptance of a deed of conveyance, and each purchaser under Articles of Agreement for Condominium Deed, and each tenant under a lease for a Unit, accepts the same subject to all restrictions, conditions, covenants, easements, 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 all Owners and any Person having at any time any interest or estate in the Property, 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 or lease.

10. **No 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.

11. **Amendment.** Except as provided in Section 27(b) of the Act or in Article XI of this Declaration, the provisions of Article II, Paragraphs 1 and 2 of Article III, Paragraph 7 of Article IX and this Paragraph 11 of Article XIII may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, and signed and acknowledged by the President and Secretary of the Board, all of the Owners and all First Mortgagees. Other provisions of this Declaration excepting those affected by Article XIII, Section 4, may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the President and Secretary of the Board, and certifying that the Owners having at least two-thirds (2/3) of the total votes [i.e. having two-thirds (2/3) of the total percentage interests in the Common Elements] have approved such amendment at a meeting of the Association duly called for such purpose, and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has

been mailed by certified mail to all First Mortgagees, no less than ten (10) days prior to the date of such affidavit. Until such date as Declarant has conveyed title to all the Units, no provision of this Declaration which affects any rights of Declarant or Developer hereunder may be changed, modified or rescinded and no provision may be added without the prior written consent of Declarant and Developer. Any change, modification or rescission shall be effective upon recording of such instrument in the Office of the Recorder of Deeds, Cook County, Illinois.

12. **Partial Invalidity.** The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

13. **Perpetuities and Other Invalidity.** If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits with respect to real property or interests therein, then such options, privileges, covenants and rights shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of the incumbent Governor of the State of Illinois and of the incumbent President of the United States of America.

14. **Liberal Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class condominium complex.

15. **Land Trust.** In the event title to any Unit is conveyed to a land title-holding trust, under the terms of which all powers of management, operation and control of the Unit remain vested in the trust beneficiary or beneficiaries, then the Unit Ownership under such trust and the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Unit Ownership. No claims shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Unit Ownership and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of such Unit Ownership.

16. **Lease.** The provisions of the Act, the Declaration, By-Laws, other condominium instruments and rules and regulations that relate to the use of the Units or the Common Elements shall be applicable to any person leasing a Unit and shall be deemed to be incorporated in any lease of any Unit.

IN WITNESS WHEREOF, \_\_\_\_\_, executed this document as of the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 1998.

ASPEN GROVE, L.L.C.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, \_\_\_\_\_, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ of \_\_\_\_\_, personally known to me to be the same person whose name is subscribed to the foregoing Declaration, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument, on behalf of the limited liability company and as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
Notary Public

Property of Cook County Clerk's Office



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## CONSENT OF MORTGAGEE

\_\_\_\_\_ ("Bank"), holder of a \_\_\_\_\_  
 \_\_\_\_\_ (the "Mortgage") dated as of \_\_\_\_\_ and  
 recorded in the office of the Recorder of Deeds of Cook County, Illinois, on \_\_\_\_\_  
 \_\_\_\_\_, as Document Number \_\_\_\_\_, hereby consents to the execution and  
 recording of the attached Declaration of Condominium Ownership and of Easements,  
 Restrictions, Covenants and By-Laws for \_\_\_\_\_ Condominiums and  
 agrees that said Mortgage is subject thereto.

**IN WITNESS WHEREOF**, the said Bank has caused this Consent of Mortgagee to  
 be signed by its duly authorized officers on its behalf in \_\_\_\_\_, Illinois, on this \_\_\_\_\_  
 day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
 By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

STATE OF ILLINOIS        )  
                                   ) **SS.**  
 COUNTY OF COOK         )

I, \_\_\_\_\_, a Notary Public in and for said County and State, **DO HEREBY**  
**CERTIFY** that \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ President  
 and \_\_\_\_\_, respectively, of \_\_\_\_\_, as  
 such \_\_\_\_\_ President and \_\_\_\_\_, appeared before me this day in person and  
 acknowledged that they signed, sealed and delivered said instrument as their free and  
 voluntary act, and as the free and voluntary act of said Company, for the uses and  
 purposes therein set forth.

**GIVEN** under my hand and notarial seal this \_\_\_ day of \_\_\_\_\_, 1998.

\_\_\_\_\_  
 Notary Public

EXHIBIT "A"

Legal Description

Property of Cook County Clerk's Office

**EXHIBIT "B"**

**Plat of Survey  
Showing the Parcel  
and Delineation of Units**

Property of Cook County Clerk's Office











## EXHIBIT "D"

### BY-LAWS FOR ASPEN GROVE CONDOMINIUM ASSOCIATION

Unless otherwise defined in these By-Laws, all defined terms shall have the meaning ascribed to them in the Declaration of Condominium Ownership for the Aspen Grove Condominiums.

## SECTION ONE

### ADMINISTRATION OF THE PROPERTY

The direction and administration of the Property shall be vested in a Board of Managers (the "Board") of the Association (hereinafter described); provided, however, that for a period commencing on the date of recording of the Declaration and ending with the date of the initial meeting of the Board, the same rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board by the Act and the Declaration shall be held and performed by the Declarant and the Developer, and, except as otherwise provided in the Act, the acts and agreements made by the Declarant and the Developer with respect to the Property shall be binding upon the Board. Each member of the Board shall be an Owner or contract purchaser as defined in Section 6(c) of these By-Laws. If an Owner or contract purchaser is a corporation, partnership, trust or other legal entity other than a natural individual, then any one (1) officer, director or other designated agent of such corporation, partner or other designated agent of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity shall be eligible to serve as a member of the Board. A majority of the Board must be residents of the Property if in fact such a majority resides in the Property and is willing to serve on the Board.

## SECTION TWO

### ASSOCIATION

The Aspen Grove Condominium Association (herein called the "Association"), acting through the Board, shall be the governing body for all the Owners for the maintenance, repair, replacement, administration and operation of the Property. The

Association shall represent the Owners in any proceedings, negotiations, settlements or agreements relating to the handling of any losses or proceeds from condemnation, destruction or liquidation of all or any part of the Property or from the termination of the condominium status of the Property; and said representation by the Association shall be as attorney-in-fact (with an interest) of the respective Owners who hereby irrevocably so appoint the Association. The Association shall not engage in or be deemed to be engaged in any business of any kind. Every Owner shall be a member therein, which membership shall automatically terminate upon the sale, transfer or other disposition of such Owner's Unit Ownership, at which time the new Owner shall automatically become a member therein. The Association shall have one (1) class of membership. Declarant, prior to the election of the first Board, and the Board at any time thereafter, may cause the Association to be incorporated as a Not-For-Profit Corporation under the General Not-For-Profit Corporation Act of the State of Illinois; and in such event, the Board of Directors of the Association shall be deemed to be the Board of Managers referred to herein and in the Act.

**SECTION THREE**

**VOTING RIGHTS**

A. **Votes.** The total number of votes of all Owners shall be one hundred (100), and each Owner shall be entitled to the number of votes equal to the percentage of ownership in the Common Elements applicable to the Unit Ownership represented by such Owner, as set forth in Exhibit "C" of the Declaration. For purposes of voting and sitting on the Board, the Developer or its designee shall be the Owner with respect to any Unit Ownership owned by Declarant. An Owner may vote by proxy executed in writing by him or by his duly authorized attorney-in-fact. The proxy shall be invalid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy, and the proxy must bear the date of execution. Any proxy distributed for Board elections must give the owner the opportunity to designate any persons the proxy holder and give the owner of the opportunity to express a preference for any known candidates for the Board or to write in a name.

B. **Multiple Owners.** If there are multiple Owners with respect to a Unit Ownership and if only one (1) of such multiple Owners is present at a meeting of the Association, he/she shall be entitled to cast the vote allocated to that Unit Ownership; however, if more than one (1) of the multiple Owners are present, the vote allocated to the Unit Ownership may be cast only in accordance with the agreement of a majority of the multiple Owners present. For purposes of this paragraph, there is majority agreement if any one (1) of the multiple Owners casts the vote allocated to that Unit Ownership without protest being made promptly to the person presiding over the meeting by any of

the other Owners of the Unit Ownership. Only one (1) of the multiple Owners may serve on the Board at any given time.

#### SECTION FOUR

##### MEETINGS

A. General Provisions. Meetings of the Association shall be held at the Property or at such other place in the State of Illinois as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the Owners having twenty percent (20%) of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Owners at which a quorum is present upon the affirmative vote of the Owners having a majority of the total votes present at such meeting. Matters subject to affirmative vote of Owners having two-thirds (2/3) or more of the total votes at a meeting duly called for that purpose, shall include, but not be limited to: (1) merger or consolidation of the Association; (2) sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all of the property and assets of the Association; and (3) the purchase or sale of land or of Units on behalf of all Owners; and (4) subject to the provisions of the Act, the commencement of any type of litigation, except for actions in forcible entry and detainer to collect assessments.

B. Initial and Annual Meeting. The initial meeting of the Association shall be held upon not less than ten (10) nor more than thirty (30) days' prior written notice given by Declarant or Developer to the Owners. Such initial meeting shall be held not later than sixty (60) days after the Turnover Date as defined in the Declaration. The formation or incorporation of the Association by Declarant or Developer shall not require Declarant or Developer to call the initial meeting of the Association any earlier than provided in the preceding sentence. Thereafter, there shall be an annual meeting of the Association on the thirtieth (30th) day of November of each succeeding year thereafter at 7:30 P.M., or at such other reasonable time or date (not more than thirty (30) days before or after such date) as may be designated in a written notice from the Board. One of the purposes of the annual meeting shall be to elect members of the Board of Managers.

C. Special Meetings. Special meetings of the Association may be called at any time upon written notice for the purpose of considering matters which, by the terms of the Declaration or under the Act, require the approval of all or some of the Owners, or for any other reasonable purpose. Special meetings may be called by the President of the Association, twenty-five percent (25%) of the members of the Board or by the Owners having twenty percent (20%) or more of the total votes.

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## SECTION FIVE

### NOTICES OF MEETINGS

Notices of annual and special meetings shall be given pursuant to the provisions of Paragraph 7 of Article XIII of the Declaration. Written notice of any membership meeting shall be mailed or delivered to Owners no less than ten (10) and no more than thirty (30) days prior to the meeting and said notice shall state the time, place and purpose of such meeting.

## SECTION SIX

### BOARD OF MANAGERS (BOARD OF DIRECTORS)

#### A. Election.

1. At the initial meeting and at each annual meeting thereafter, the Owners shall elect a Board of Managers, all of whom shall be elected at large. If there are multiple owners of a single unit only one (1) of the multiple owners shall be eligible to serve as a member of the Board at any one (1) time.

2. The Board shall consist of five (5) members. At the initial election of the Board, the three (3) candidates receiving the highest number of votes shall be elected for a term of three (3) years and the candidate receiving the next highest number of votes shall be elected for a term of one (1) year. Upon expiration of the terms of office of the members so elected, and thereafter, successors shall be elected for a term of two (2) years each.

3. Each member of the Board shall hold office until a successor shall have been duly elected and qualified; provided that Board members may succeed themselves. Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board and approved by the Owners having two-thirds (2/3) or more of the total votes.

4. The Board may disseminate to Unit Owners biographical and background information about candidates for election to the Board if: (1) no preference is expressed in favor of any candidate; and (2) reasonable efforts to identify all candidates are made and all candidates are given an opportunity to include biographical and background information in the information to be disseminated.

EXHIBIT "B"  
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B. **Counting of Election Ballots.** A candidate for election to the Board or such candidate's representative shall have the right to be present at the counting of ballots at such election.

C. **Contract Purchasers.** The purchaser of a Unit from a seller other than the Declarant or the Developer pursuant to an installment contract for purchase shall during such times as he or she resides in the Unit be counted toward a quorum for purposes of election of members of the Board at any meeting of the Owners called for purposes of electing members of the Board, and shall have the right to vote for the election of members of the Board and to be elected to and serve on the Board unless the seller expressly retains in writing any or all of such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association or its agents. For purposes of this subparagraph, "installment contract" shall have the same meaning as set forth in Section 1(e) of "An Act Relating To Installment Contracts To Sell Dwelling Structures" approved August 11, 1967, as from time to time amended.

D. **Vacancies.** Vacancies on the Board due to resignation, removal or death, shall be filled by the remaining members of the Board by two-thirds (2/3) vote until the next annual meeting of the Association or for a period terminating no later than thirty (30) days following the filing of a petition signed by Owners holding twenty percent (20%) of the votes in the Association requesting a meeting of the Association to fill the vacancy on the Board.

E. **Management of Property.** Except as otherwise provided in the Declaration, the Property shall be managed by the Board and the Board shall act by majority vote of those present at its meetings when a quorum exists. A majority of the Board shall constitute a quorum.

F. **Meetings.** Meetings of the Board may be called, held and conducted in accordance with such rules and regulations as the Board may adopt. Meetings of the Board shall be open to any Owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or an Owner's unpaid share of Common Expenses; however, any vote on these matters shall be taken at a meeting or portion thereof open to any Owner. Any Owner may record the proceedings of meetings, or portions thereof, required to be open by the Act by tape, film or other means, subject to such reasonable rules and regulations as the Board may prescribe. Notice of such meetings shall be mailed or delivered to Board members at least forty-eight (48) hours prior thereto unless a written waiver of such notice is signed by the person or persons entitled to such notice

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before the meeting is convened. In addition, such copies of notices of meetings of the Board shall be posted in entranceways or other conspicuous places on the Property at least forty-eight (48) hours prior to the meeting of the Board. The Board may designate one or more locations in the proximity of the Units where the notice of meetings shall be posted. The Board shall meet at least four (4) times annually. A majority of the total members of the Board shall constitute a quorum.

G. **Officers.** The Board shall elect the following officers from among the members of the Board: a President who shall preside over both its meetings and those of the Association, and who shall be the chief executive officer of the Board and the Association; a Secretary who shall keep the minutes of all meetings of the Board and of the Association and who shall, in general, perform all the duties incident to the office of Secretary; a Treasurer who shall keep the financial records and books of account; and such additional officers as the Board shall see fit to elect. Such officers shall serve at the will of the Board, which shall fill any vacancies. Officers shall be elected at the first meeting of the Board immediately following the initial meeting and each annual meeting thereafter of the Association.

H. **Removal.** Any Board member may be removed from office by affirmative vote of the Owners having two-thirds (2/3) or more of the total votes, at any annual or special meeting of the Association called for that purpose. A successor to fill the unexpired term of a Board member so removed may be elected by the Owners at the same meeting or any subsequent meeting called for that purpose. This right of removal shall not apply to any Board member selected by Declarant or Developer.

## SECTION SEVEN

### GENERAL POWERS AND DUTIES OF THE BOARD

The Board, for the benefit of all the Owners, shall acquire the following goods and services and do any of the following things, and shall pay for such goods, services and things as a common expense as follows:

A. **Utilities.** Sewer, water, scavenger service and other necessary utility service for the Common Elements and (if not separately metered or charged) for the Units.

B. **Insurance.** Insurance on the Property insuring the Common Elements and the Units against loss or damage by fire, lightning and those risks now or hereafter contained in the extended coverage, vandalism and malicious mischief endorsements, for the full insurable replacement value of the Common Elements and the Units, written in the name of, and the proceeds thereof shall be payable to, the members of the Board as

trustees for each of the Owners in the percentages established in Exhibit "C". Prior to obtaining any such policy of insurance, or any renewal thereof, the Board, at its option, may obtain an appraisal from a qualified appraiser for the purpose of determining the full insurable replacement value of the Common Elements and the Units for the amount of insurance to be effected pursuant hereto. The Board shall acquire all insurance necessary to meet the insurance requirements of the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") and the Act, and whichever has the greater requirements shall control for purposes of this paragraph. Each Owner shall be required to report all additions, alterations or improvements to such Owner's Unit promptly in writing to the Board, without prior request from the Board or the managing agent, and to reimburse the Board for any additional insurance premiums attributable thereto. The Board shall not be responsible for obtaining insurance on such additions, alterations or improvements unless and until such Owner shall make such report and request the Board in writing to obtain such insurance, and shall make arrangements satisfactory to the Board to reimburse the Board for any such additional premiums; and upon the failure of such Owner so to do, the Board shall not be obligated to apply any insurance proceeds to restore the affected Unit to a condition better than the condition existing prior to the making of such additions, alterations or improvements. Any such policy of insurance (1) shall contain a standard mortgage clause endorsement in favor of each mortgagee of a Unit as its interest may appear, (2) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act or neglect of any Owner, (3) shall provide that, notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Owners elect to sell the Property or remove the Property from the provisions of the Act, (4) shall contain an endorsement to the effect that such policy shall not be terminated for non-payment of premium without at least ten (10) days' prior written notice to each mortgagee of a Unit, (5) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the Declarant and its beneficiaries, the Developer, the managing agent, if any, their respective employees and agents, the Owners and Occupants, (6) shall contain a "Replacement Cost Endorsement", and (7) shall not provide for a deductible amount greater than the lesser of Ten Thousand and No/100 Dollars (\$10,000.00) or one percent (1%) of the policy face amount. Notwithstanding the issuance of a standard mortgage clause endorsement, any losses under any such policy of insurance shall be payable, and all insurance proceeds recovered thereunder shall be applied and disbursed in accordance with the provisions of the Declaration, these By-Laws and the Act; provided, however, that if the Board fails to perform all of the conditions precedent required by any such policy of insurance, and fails to collect the amount of the loss within the time required by law, and any mortgagee of a Unit is required to avail itself of its rights under the standard mortgage clause endorsement to collect the proceeds of any such policy of insurance, any amounts so collected through the efforts of the mortgagee shall be applied as directed by the mortgagee. The Board may engage the services of any corporation qualified to accept and execute trusts in Illinois to act as Insurance Trustee (and as successor Insurance Trustee) and to receive and disburse the insurance proceeds

resulting from any loss upon such terms as the Board shall determine consistent with the provisions of the Declaration and these By-Laws. In the event the lowest of three (3) bids from reputable contractors for making all repairs required by any loss shall exceed Sixty Thousand and No/100 Dollars (\$60,000.00), the Board, upon written demand of any mortgagee of a Unit, shall engage the services of an Insurance Trustee as aforesaid.

C. **Liability and Property Damage Insurance.** Comprehensive public liability and property damage insurance in a minimum coverage of One Million and No/100 Dollars (\$1,000,000.00) for bodily injury and property damage arising from a single occurrence, insuring the members of the Board, the Association, and managing agent, if any, and their respective agents and employees. The Declarant (including its beneficiaries) and the Developer shall be included as additional insureds in their capacities as Owner and/or Board member. The Owners and Occupants shall be included as additional insureds but only with respect to that portion of the Property not reserved for their exclusive use. The insurance shall cover claims of one (1) or more insured parties against other insured parties. The insurance shall contain a waiver of any rights to subrogation by the insuring company against any of the above-named insured persons.

D. **Other Insurance.** Workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board in its judgment shall elect to effect.

E. **Taxes.** Real property taxes, special assessments, and any other special taxes or charges of the County of Cook, State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the Association. Upon authorization by a two-thirds (2/3) vote of the members of the Board or by the affirmative vote of the Owners having more than one-half (2) of the total votes, at a meeting duly called for such purpose, the Board, acting on behalf of all Owners, shall have the power to seek relief from or in connection with the assessment or levy of real property taxes, special assignments and any other special taxes or charges of the State of Illinois or of any other political subdivision thereof, or other lawful taxing or assessing body. In addition, the Board may act on behalf of all Owners in connection with any other matter where the respective interests of the Owners are deemed by the Board to be similar and non-adverse to each other.

F. **Supplies and Services.** Landscaping, snow removal, cleaning, maintenance, decorating, repair and replacement of the Common Elements and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper. The Board shall have the exclusive right to designate, employ and remove personnel necessary for the maintenance, repair and replacement of the Common Elements.



G. **Maintenance.** Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations or assessments which the Board is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws or by law or which in its opinion shall be necessary or proper for the maintenance and operation of the property as a first class condominium complex or for the enforcement of the Declaration, By-Laws, Rules and Regulations and the Act.

H. **Mechanic's Liens.** Discharge any mechanic's lien or other encumbrance levied against the entire Property or any part thereof which may in the opinion of the Board constitute a valid lien against the Property or against the Common Elements, rather than merely against the interest therein of a particular Owner. Where one (1) or more Owners (or the Occupants of his or their Units) are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs (including attorneys' fees) incurred by the Board by reason of such lien shall be specially assessed to such Owners, regardless of whether such lien is later determined to be false, fraudulent or bona fide.

I. **Maintenance and Repair of Units.** Maintenance and repair of any Unit if, in the opinion of the Board, such maintenance or repair is necessary to protect the Common Elements or any other portion of the Property, and the Owner of such Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of such maintenance or repair has been mailed or delivered by the Board to such Owner; provided that the entire cost of such maintenance or repair shall be deemed a part of such Owner's share of the Common Expenses.

J. **Right of Entry.** Upon reasonable notice, the Board or its agents may enter any Unit when necessary in connection with any construction, maintenance, pest and vermin control, testing or inspection for which the Board is responsible under the Act, the Declaration, these By-Laws or otherwise. The Board or its agents may likewise enter any balcony or patio for construction, maintenance, pest and vermin control, testing or inspection. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by the Board out of the maintenance fund as a common expense; provided that, if any Owner fails or refuses to permit such access to his Unit after reasonable notice and the Board or its agents are required to make a forced entry into said Unit, the Owner shall be solely responsible for any damage caused by such forced entry. In the event of an emergency, no notice is required from the Board to obtain entry.

K. **Improvements.** The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire and pay for out of the maintenance fund any capital additions to or capital improvements, including structural and non-structural additions and improvements, of the Common Elements requiring an expenditure in excess of Fifty Thousand and No/100 Dollars (\$50,000.00) without in each case the prior approval of the Owners having two-thirds (2/3) or more of the total votes. This limitation shall not be construed as a limit on expenditures necessary for the Board

to comply with its statutory duty of providing maintenance and upkeep of the Property as required by Section 18.4 of the Act as from time to time amended.

L. **Rules and Regulations.** To adopt such reasonable rules and regulations and amendments thereto as it may deem advisable for the maintenance, operation, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and Occupants of the Property, after a meeting of the Owners called for the specific purpose of discussing the proposed Rules and Regulations, notice of which contains the full text of the proposed Rules and Regulations and which conforms to the procedural requirements for the calling of a regular or special meeting of the Association under the Act. No quorum is required at this meeting of Owners. No rule or regulation shall impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution. Written notice of the adoption of such Rules and Regulations shall be given to all Owners and Occupants. The Developer or Declarant shall have the right to adopt and promulgate the initial Rules and Regulations for the Association which may be amended by any subsequent Board as provided herein.

M. **Management.** To retain a professional manager for the Property, if and to the extent deemed advisable by the Board. The beneficiaries of the Declarant or the Developer may engage a management agent under a contract that can be terminated without cause after the election of the initial Board upon sixty (60) days written notice.

N. **Leases, Licenses and Concessions.** To lease or to grant licenses or concessions with respect to any part of the Common Elements, subject to the discretion of the Board and the terms of the Declaration and these By-Laws.

O. **Assignment of Income.** To assign the Association's right to future income, including the right to receive common expense assessments.

P. **Cable Television.** To record that granting of an easement for the installation of cable television cable where authorized by the Board pursuant to the Declaration and these By-Laws.

Q. **Violation.** To impose charges for late payments of an Owner's proportionate share of the Common Expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of the Declaration, By-Laws, and Rules and Regulations of the Association.

R. **Business.** The Board shall not conduct any business for profit on behalf of the Owners unless provided for or required by the Act or the Declaration or these By-Laws or approved by a majority of the Owners.

S. **Powers and Duties.** Nothing hereinabove contained shall be construed to limit the powers and duties of the Board as set forth in the Act, and the powers and duties



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set forth in the Declaration and these By-Laws shall be construed as a clarification and, where permissible, an expansion of such statutory powers and duties.

T. **Fiduciary Duty.** In the performance of their duties, the officers and members of the Board are required to exercise, whether appointed by either the Declarant or the Developer, or elected by the Owners, the care required of a fiduciary of the Owners.

U. **Handicapped Unit Owner.** To reasonably accommodate the needs of a handicapped Unit Owner as required by the Illinois Human Rights Act, as may from time to time be amended, in the exercise of its powers with respect to the use of Common Elements or approval of modifications in an individual Unit. (775 I.L.C.S. 5/1-101 et. seq.)

V. **Reserves.** The Board, in its sole discretion, shall have the right, upon notice to the Unit Owners, to provide for reserves for maintenance of the Property.

**SECTION EIGHT**

**LIABILITY OF THE BOARD OF MANAGERS**

A. **Liability to Owners.** Neither the Declarant (or its beneficiaries), the Developer, the members of the Board nor the officers of the Association shall be liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such de facto or de jure Board members and officers, except for any acts or omissions found by a court of law to constitute willful misconduct in the performance of duty.

B. **Liability to Third Parties.** The Owners (and, to the extent permitted by law, the Association) shall indemnify and hold harmless the Declarant (and its beneficiaries), the Developer, each of the members of the Board and each of the officers against all contractual and other liabilities to others arising out of contracts made by or other acts of the Declarant (and its beneficiaries), the Developer, the Board and officers on behalf of the Owners or the Association, or arising out of their de facto or de jure status as Board members or officers unless any such contract or act shall have been made fraudulently or with gross negligence or contrary to the provisions of the Declaration. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, attorney's fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other in which the Declarant (and its beneficiaries), the Developer, any member of the Board or officers may be involved by virtue of such person being or having been or having served as such member or officers; provided, however, that such indemnity by the Association shall not be operative with respect to (i) any matter as to which such person

shall have been finally adjudged in such action, suit or proceeding to be liable for willful misconduct in the performance of his duties as such member or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by the Board (who may be counsel regularly retained by the Association) there are no reasonable grounds for such person or officer being adjudged liable for willful misconduct in the performance of his duties as such member or officer. The Board shall have authority to purchase and maintain insurance on behalf of the officers and members of the Board against any expenses (including attorney's fees), liability or settlement based on asserted liability, incurred by them by reason of being or having served in such capacity, whether or not the Association would have the power to indemnify them against such liability or settlement under the provisions of this Section Eight. The costs of any such insurance shall be a Common Expense. It is also intended that the liability of any Owner arising out of any contract made by the Board, the officers, Declarant (or the beneficiaries of Declarant), the Developer, or out of the aforesaid Owners' indemnity, shall be limited to such proportion of the total liability thereunder as such Owner's percentage of ownership in the Common Elements bears to the total percentage of ownership in the Common Elements of all Owners. Every contract made by the Board, the officers, Declarant (or the beneficiaries of Declarant), the Developer or the managing agent on behalf of the Owners shall provide that they are acting only as agents for the Owners and shall have no personal liability thereunder (except as Owners) and that each Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as such Owner's percentage of ownership in the Common Elements bears to the total percentage of ownership in the Common Elements of all Owners. If the Board or Association elects to or is required to indemnify or hold harmless a Board member or officer pursuant to this section, the Board reserves the right to provide defense of such member and to settle or compromise any claim against such individuals.

**SECTION NINE**

**SIGNATURES**

All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the Secretary or Treasurer and countersigned by the Secretary or Treasurer.

**SECTION TEN**

**PROFESSIONAL MANAGEMENT**

Any agreement for professional management of the Property or any other contract providing for services of the Developer, may not exceed a term of two (2) years from the date of the filing of the Declaration. Any such agreement must provide for termination by either party without cause and without payment of a termination fee upon thirty (30) days' or less written notice.

**SECTION ELEVEN**

**RESALE**

A. **Documents.** In the event of any resale of a Unit by an Owner other than the Declarant or Developer, such Owner shall obtain from the Board and shall make available for inspection to the prospective purchaser, concurrently with execution of any contract for sale, upon demand the following:

1. A copy of the Declaration, By-Laws, other condominium instruments and any Rules and Regulations.
2. A statement of the monthly common expense assessment for the selling Owner's Unit.
3. A statement of any liens, including a statement of the account of the Unit setting forth the amounts of unpaid assessments and other charges currently due and owing from the selling Unit Owner.
4. The information on the total actual expenditures, by category, made for all repairs, maintenance, operation or upkeep of the common areas of the building in which the Unit is located within the last three (3) years as found the regular books of the Association. If the property has not been occupied as a condominium for a period of three (3) years, the information, if available, shall be provided for such lesser time as the Property has been so occupied.
5. A statement of any other fees payable by the Unit Owners.
6. A statement of any future capital expenditures approved by the Association or the Board.

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7. A statement of the amount of the reserves for capital expenditures and of any portions of those reserves designated by the Association for specified projects.

8. The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association.

9. The current operating budget of the Association.

10. A statement of any judgments against the Association, and the status of any pending suits to which the Association is a party, of which it has knowledge.

11. A statement describing any insurance coverage provided for the benefit of Unit Owners.

12. A statement of whether the Board has received written notice from any Federal, State or local government of any violations of any applicable codes with respect to the Unit or of the Common Elements.

B. The Association, within ten (10) days after a written request by an Owner, shall make a good faith effort to furnish accurate information necessary to enable the Owner to comply with this Section. An Owner delivering a statement of such information shall not be liable to the purchaser for any erroneous information from the Association, provided that the errors are unknown to the Owner.

C. An Owner is not liable to a purchaser for the failure or delay of the Association to provide such information in a timely manner. Inability to obtain any of the information shall be set forth in the sworn statement of the Owner. The purchaser shall have five (5) days from receipt of such affidavit to void said contract for said failure to provide data.

D. Immediately upon execution by both parties of a sales contract by both Owner and purchaser, the Owner shall provide to the Board the name and address of the purchaser and the Board shall from that time on send duplicates of all notices sent to Owner to the purchaser.

E. If any special assessment is voted for a capital improvement between the provision of the statement of information described in (A) and the closing of the sale of the unit, and this assessment exceeds five percent (5%) of the contract sale price, said assessment shall be grounds for rescission of the Contract by the purchaser. Said rescission shall be by a writing delivered to seller not more than five (5) calendar days following receipt by the purchaser of the notice of the special assessment. Where,

however, Owner notifies purchaser that Owner shall assume the special assessment obligation, the purchaser may not utilize this rescission provision.

**SECTION TWELVE**

**AMENDMENT**

The provisions of these By-Laws may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, signed and acknowledged by the President and Secretary of the Board, and certifying that the Owners having at least a majority of the total votes have approved such amendment at a meeting of the Association duly called for such purpose, and containing an affidavit by an officer of the Board certifying that a copy of the change, modification or rescission has been mailed by certified mail to all First Mortgagees, no less than ten (10) days prior to the date of such affidavit. Notwithstanding the foregoing, an amendment to these By-Laws which falls within the parameters of Article XI of the Declaration shall not be effective without the prior written approval of two-thirds (2/3) of all First Mortgagees. Until such date as Declarant has conveyed title to all the Units, no provision of these By-Laws may be changed, modified or rescinded and no provision may be added without the prior written consent of Declarant and Developer. Any change, modification or rescission shall be effective upon recording such instrument in the office of the Recorder of Deeds, Cook County, Illinois.

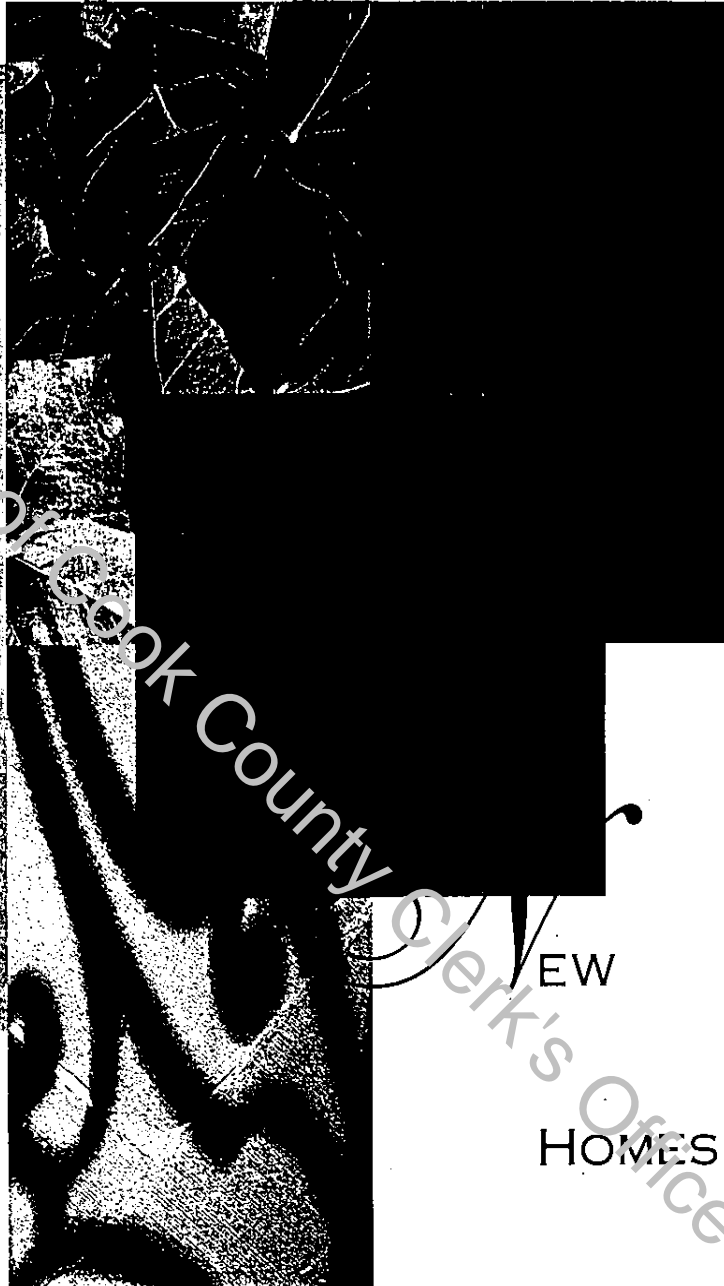
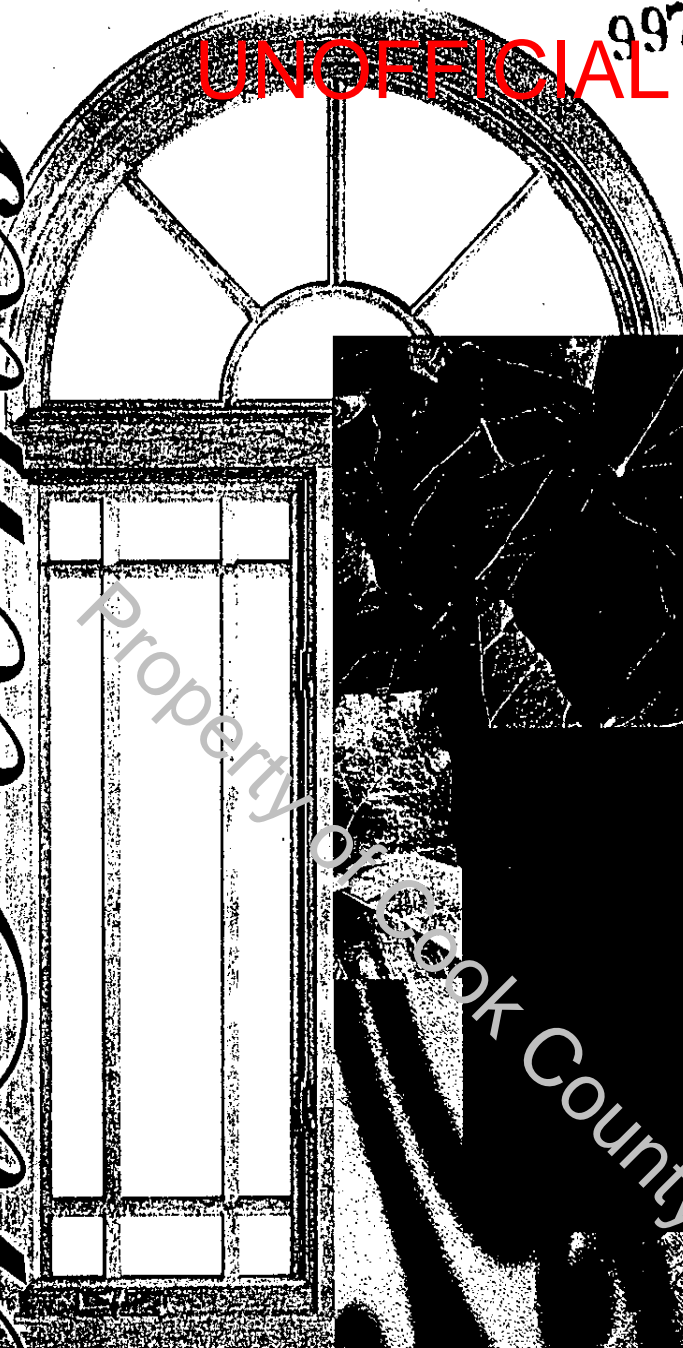
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Aspen Homes



Property of Cook County Clerk's Office

NEW

HOMES

IN ALL THE

RIGHT

PLACES



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*Aspen Grove*

Ranch Style, Single-level Living and Townhomes.  
Basements Available.

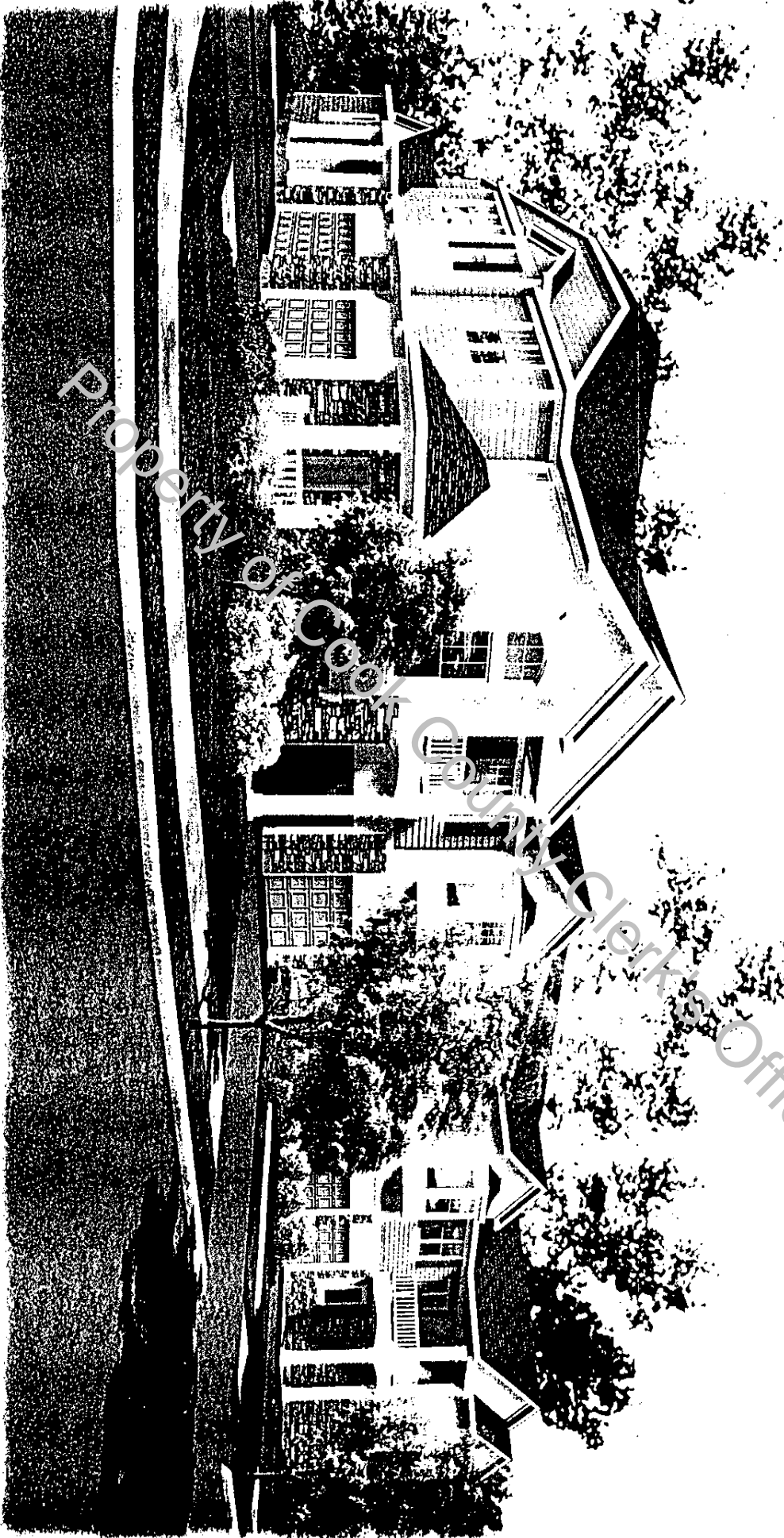


EXHIBIT "C"  
2 of 12

*ASPEN*

**HOMES**

For More Information, Please Call (847) 202-1807

## ASPEN GROVE QUALITY FEATURES INCLUDED IN YOUR HOME

### KITCHEN

- Furniture-Finished cabinets
- Deluxe garbage disposal
- Kenmore Continuous clean gas oven/range with hood
- Double-bowl Koehler sink with
- Delta solid brass uni-lever faucet control with chrome finish
- Built-in multiple cycle dishwasher by Kenmore
- Laminated kitchen countertops with beveled edge
- Superior no-wax vinyl flooring in choice of color and pattern

### BATHS AND CLOSETS

- No-wax vinyl flooring in hall baths & master bath
- Ceramic floor tile in powder room
- Your choice of furniture-quality vanities with cultured marble tops and integral bowl
- Master Bath-shower and garden tub, as shown
- Oversized decorator mirrors
- Double-bowl vanity in master bath, as shown
- Single-lever mixer faucets in tubs, shower and vanities
- Medicine cabinets per plan
- Lighted closets
- Large walk-in closets (per plan)
- Easy-clean, vinyl-coated wire closet shelves in master bedrooms
- Underground utilities
- Ground fault circuitry in all baths
- Anti-scald pressure-balanced shower valves

### INTERIOR FEATURES

- Premium hardware
- Designer selected wall-to-wall carpeting
- Decorator light fixtures
- Doorbell/Chimes
- Automatic smoke detectors wired to electrical system
- Ceramic entry tile
- Contemporary half walls with painted wood cap
- Six panel colonist doors with wood trim painted with high-gloss enamel
- Two-coat "Bright White" interior paint finish
- Two designated television and two designated telephone jacks
- Dry wall sculpturing as shown

### EXTERIOR FEATURES

- Fully landscaped and sodded per plan
- Premium, maintenance-free aluminum siding, fascia and soffits
- Fieldstone and dryvit exteriors
- Cedar trim and bandboards
- Insulated, Aluminum wood clad double pane glass windows with removable screens and wood trim
- Asphalt driveways
- Concrete walks
- Gutters and downspouts
- Weatherproof electrical outlet front and rear of home
- Marvin wood windows with aluminum clad exteriors, with double pane glass and removable screens & grids
- Insulated, metal clad front door with glass transom and sidelight
- Two car garage with garage door opener outlets

### UTILITIES AND STORAGE

- Individual utility rooms conveniently located
- 200 AMP, 220 volt service panel with circuit breakers
- Ground fault interrupters, as specified
- Energy efficient, gas-fired, forced-air furnace
- Automatic, gas-fire, glass-lined energy efficient 50 gallon water heater
- Copper plumbing water supply
- Vents for dryers
- Central air conditioning

### FOR YOUR PEACE OF MIND

- Quality Materials
- Composite shingles over heavy felt over 15/32" roof sheathing; 2" x 4" wall studs, 16" on center; tongue-and-groove wood subflooring, glued and nailed to floor joists
- Drywall screwed and glued
- Excellent energy-saving (R-30) insulation in roof over 5/8" drywall; exterior walls, full-thick (R-13) 3 1/2" BATT insulation or equal
- Foundations:
- Full wall and footing
- Separate storm and sanitary sewers
- Positive drainage directed to storm sewer systems
- Underground utilities
- Sump pumps in below-grade areas
- Balanced attic ventilation
- Engineered roof truss system
- Insured 10-year warranty

# Aspen Grove - Palatine Community Information

**School Information:**

CONSOLIDATED SCHOOL DISTRICT 15  
Joe Kiszka Educational Service Center  
580 N. First Bank Drive  
Palatine, IL 60067  
(847) 963-3000  
Dr. John G. Conyers, Superintendent

Pleasant Hill Elementary  
434 W. Illinois Avenue  
Palatine, Illinois 60067  
(847) 934-2894

Plum Grove Junior High  
1100 Plum Grove Road  
Rolling Meadows, Illinois 60008  
(847) 963-3700

TOWNSHIP HIGH SCHOOL DISTRICT 211  
G.A. McElroy Administrative Center  
1750 S. Roselle Road  
Palatine, IL 60067  
Dr. Gerald Chapman, Superintendent

William Fremd High School  
1000 South Quentin Road  
Palatine, IL 60067  
(847) 358-6222

**Private Elementary Schools:**

St. Theresa  
445 N. Benton  
(847) 359-2846  
Christ the King  
100 W. Michigan  
(847) 358-0230

Immanuel Lutheran  
160 N. Plum Grove  
(847) 359-1936

**Private High Schools:**

St. Viator (coed)  
1213 E. Oakton  
Arlington Heights, IL 60004

**Transportation:**

Palatine is within 8 miles of 6 major  
highways: I-90, I-294, I-290, Illinois  
Route 52, U.S. Routes 12 & 14.

Passenger/Commuter rail service is  
provided by Chicago and Northwestern  
(Metra) Railroad from downtown  
Palatine to Chicago's Loop.

**Shopping for Food and Fun:**

Everything you need is just around the  
corner. Whether it's groceries,  
restaurants, medical services, salons,  
any kind of retailer, gas stations, or the  
pharmacy, it's all just minutes away.

**Recreation in the Area:**

PALATINE PARK DISTRICT  
Palatine Community Center  
205 E. Wood Street  
Palatine, IL 60067  
(847) 991-0333  
\*Maintains 28 parks in the area

**COUNTRY CLUBS & GOLF COURSES**

Palatine Hills Golf Course  
Highland Woods Golf Course  
Twin Lakes Golf Course  
Thunderbird Country Club  
Inverness Country Club

**FITNESS & SWIMMING**

Bueller YMCA  
1400 W. Northwest Hwy.  
(847) 359-2400

**CULTURAL/ENTERTAINMENT**

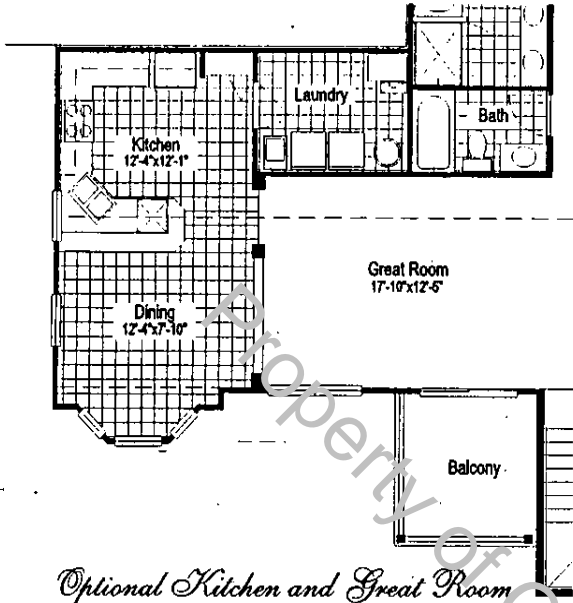
Cutting Hall  
Center for the Performing Arts  
150 E. Wood Street  
(847) 359-9796

George S. Clayson House  
Palatine Historical Society  
224 E. Palatine Road  
(847) 991-6460

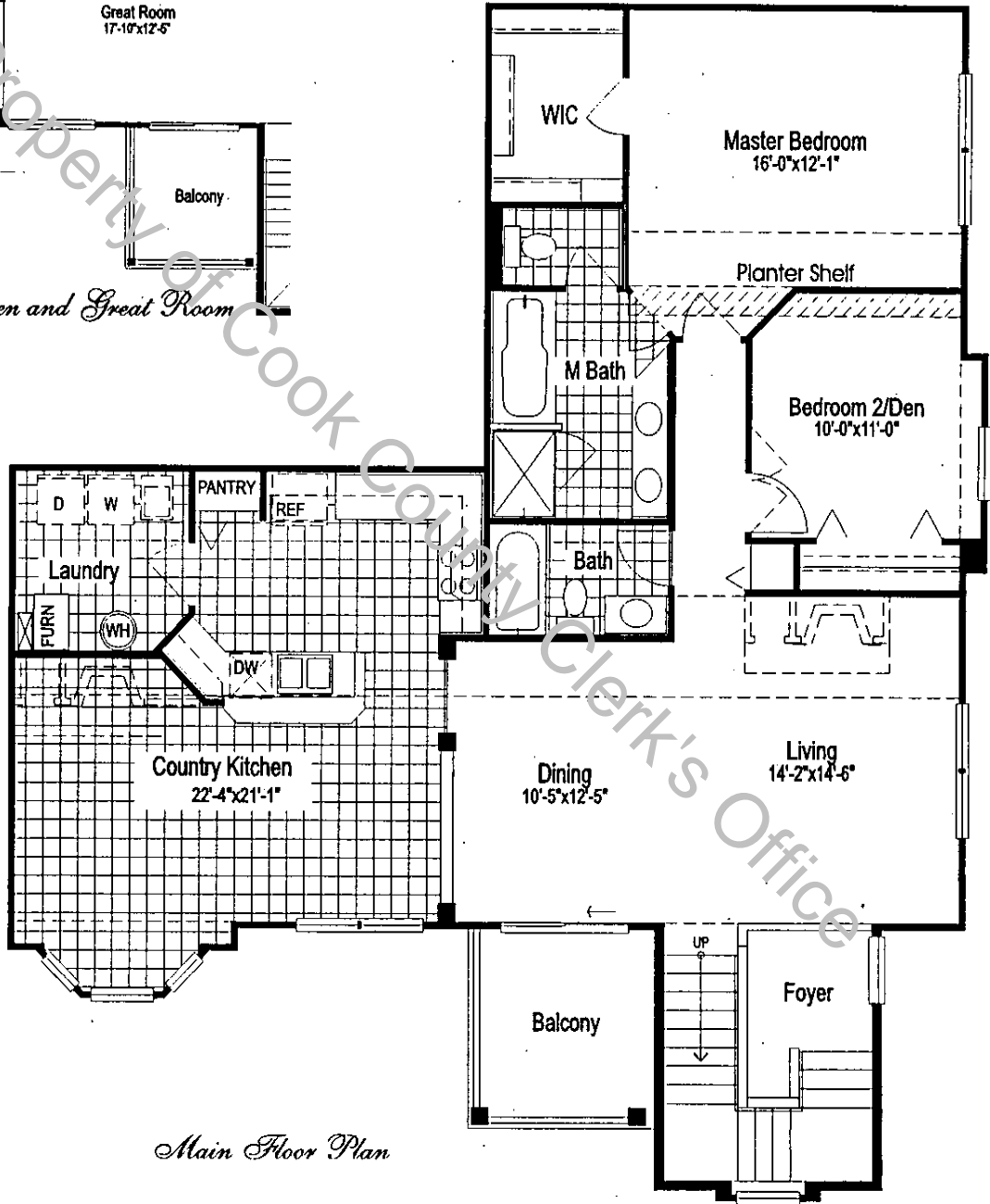
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## The Pine

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*Optional Kitchen and Great Room*



*Main Floor Plan*

EXHIBIT "C"  
5 of 12

ASPEN  
HOMES

Aspen Grove LLC's policy of continual improvement in design and construction requires that specifications, equipment, dimensions and prices be subject to change without notice. Refer to plans and specifications in the Sales Office for current details.

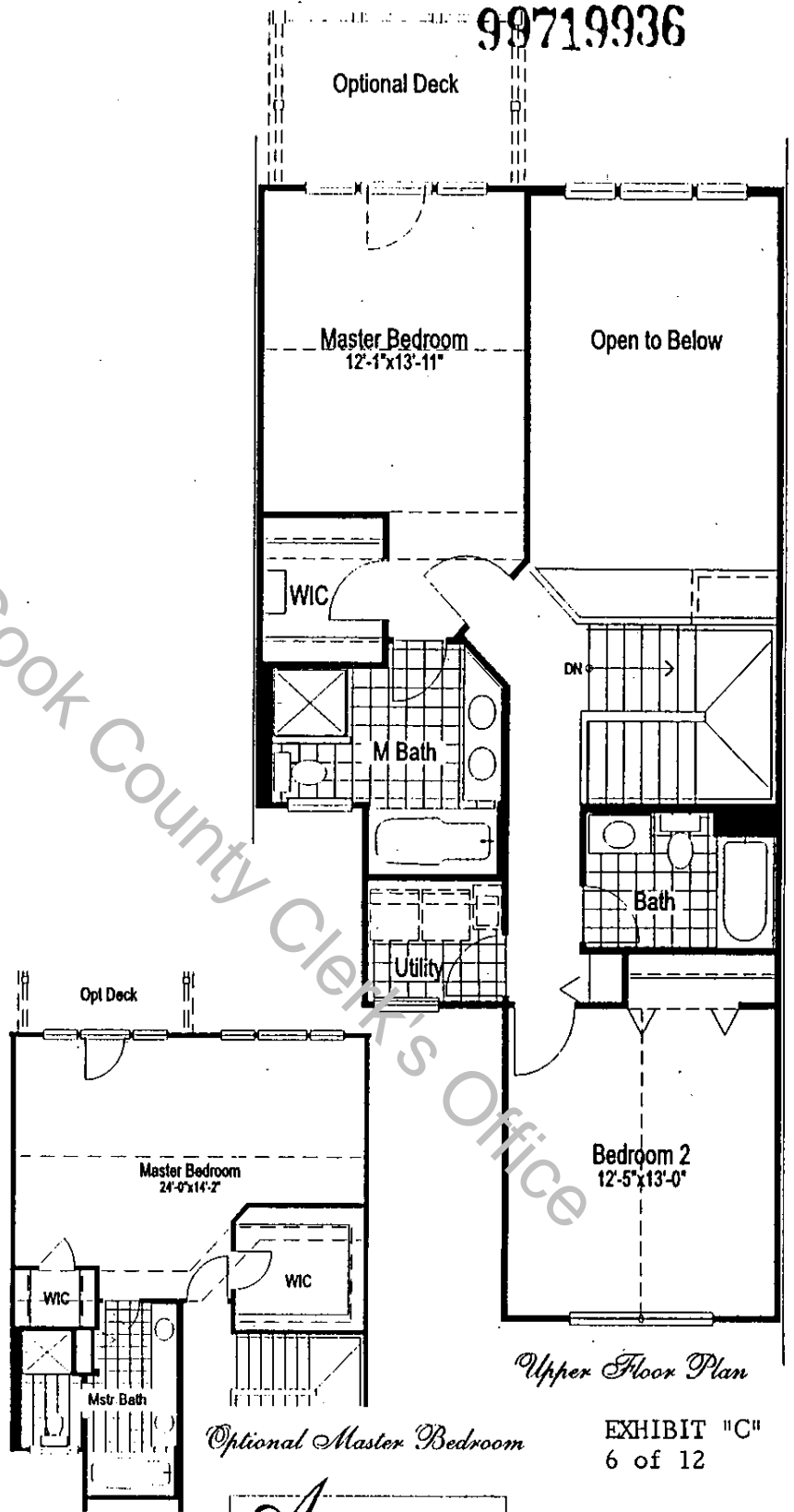
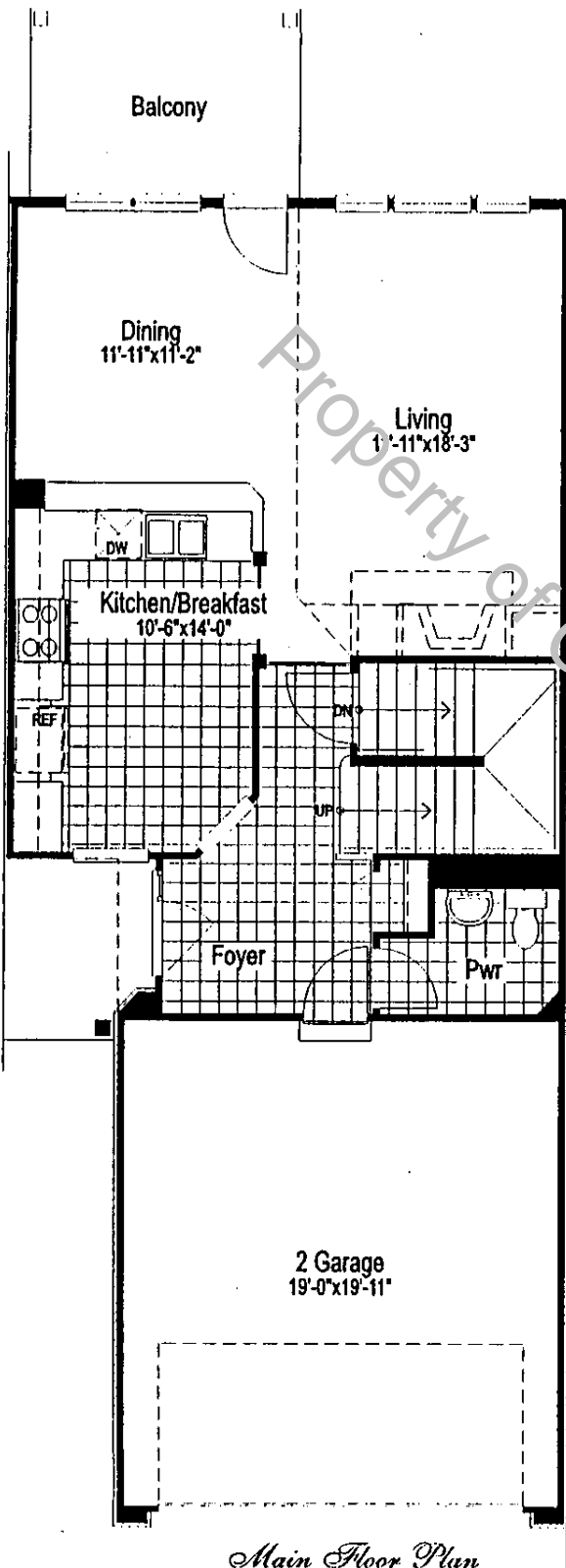
"We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin."



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The Juniper

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Main Floor Plan

Upper Floor Plan

EXHIBIT "C"  
6 of 12

ASPEN

HOMES

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# The Boxwood

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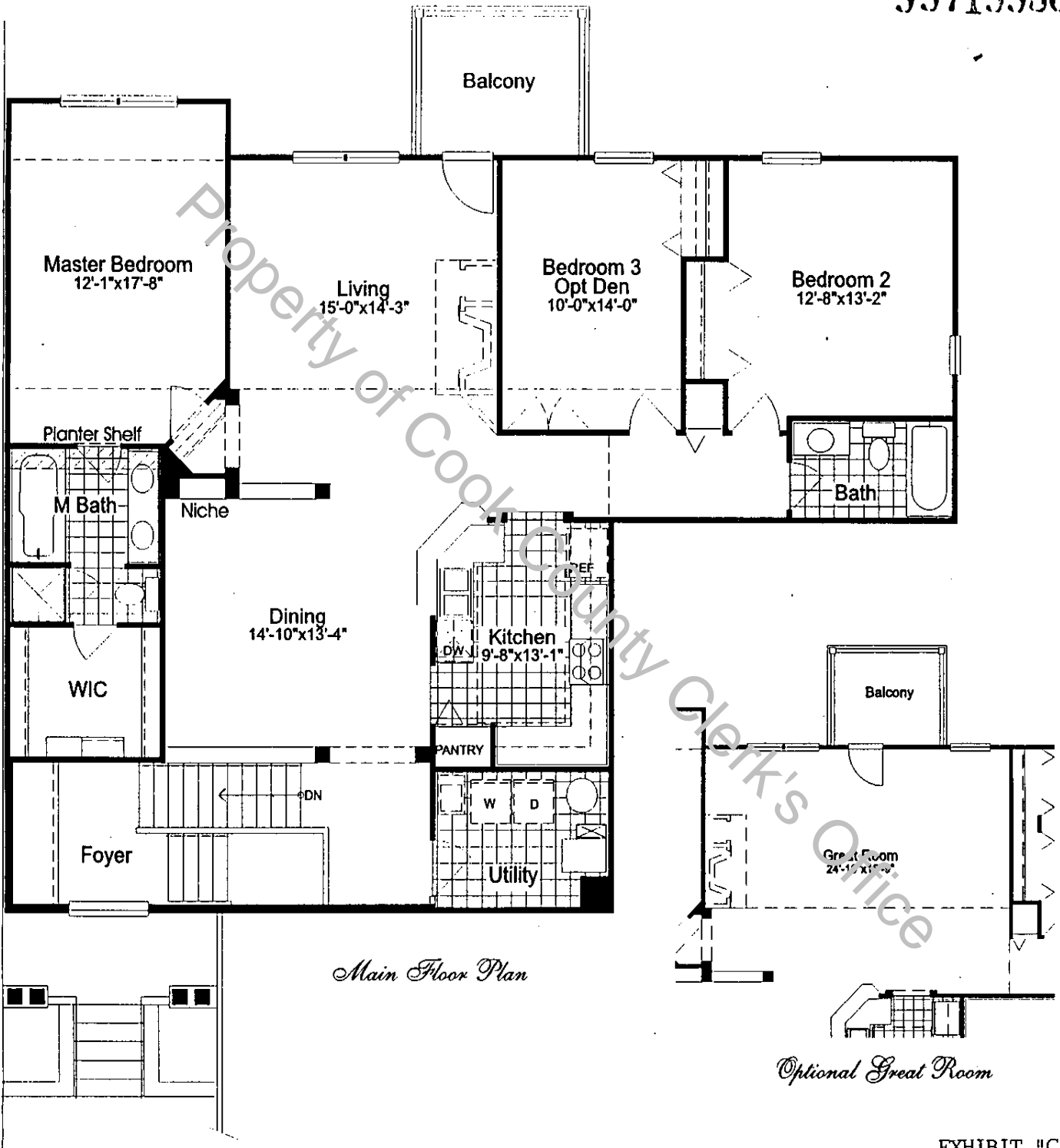


EXHIBIT "C"  
7 of 12



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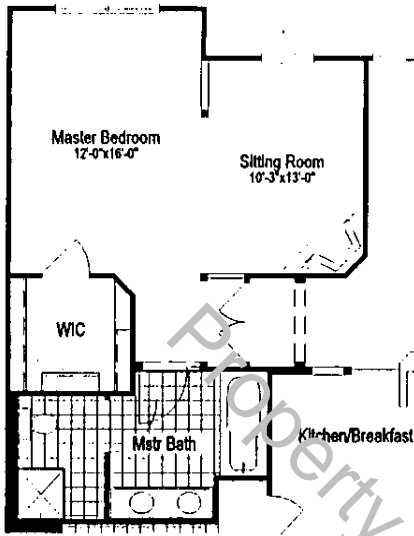
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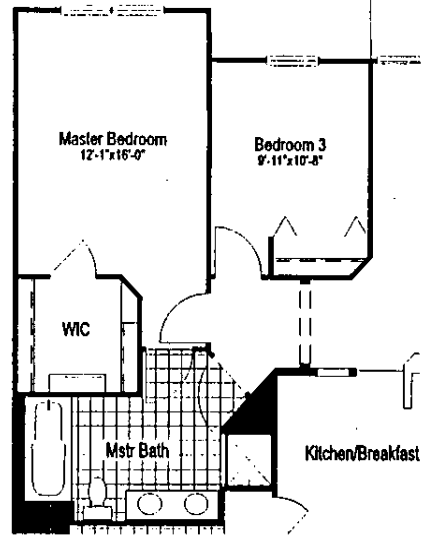


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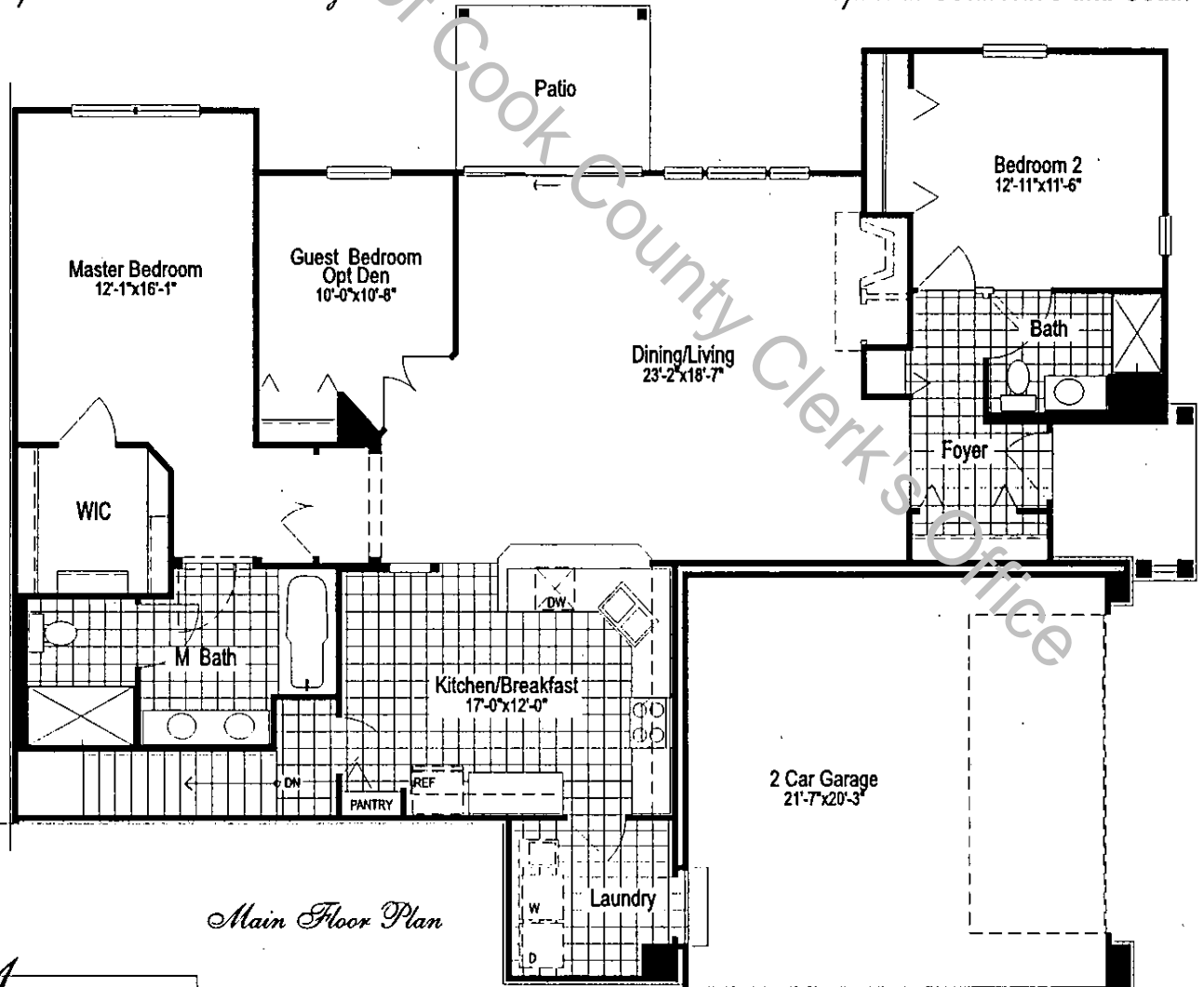
# The Cypress



Optional Master and Sitting Room



Optional Bedroom 3 and Bath



Main Floor Plan



EXHIBIT "C"  
8 of 12

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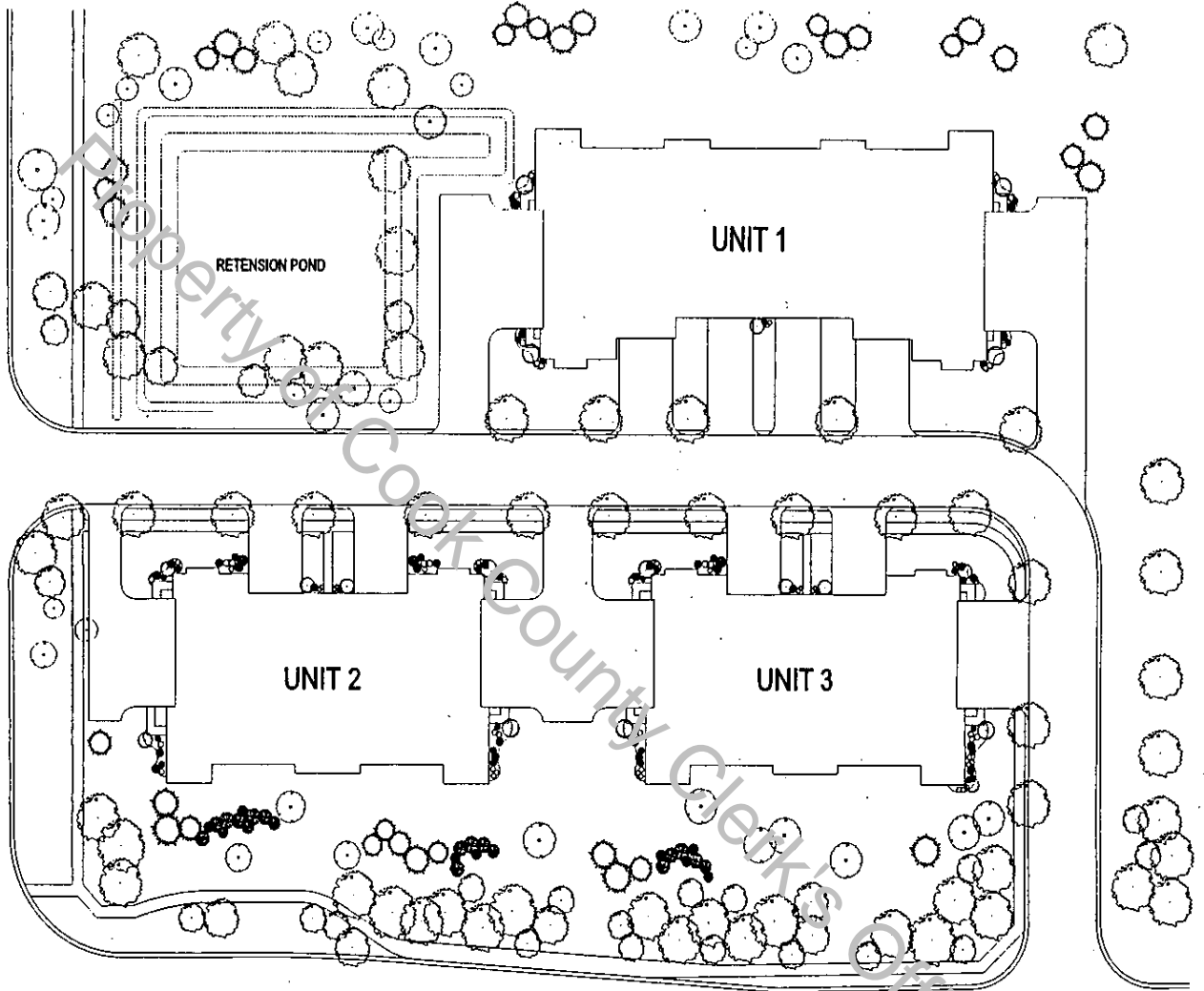


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Site Plan

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PLUM GROVE ROAD



RETENSION POND

UNIT 1

UNIT 2

UNIT 3

ILLINOIS AVENUE

EXHIBIT "C"  
9 of 12



ASPEN HOMES

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# Building Layout

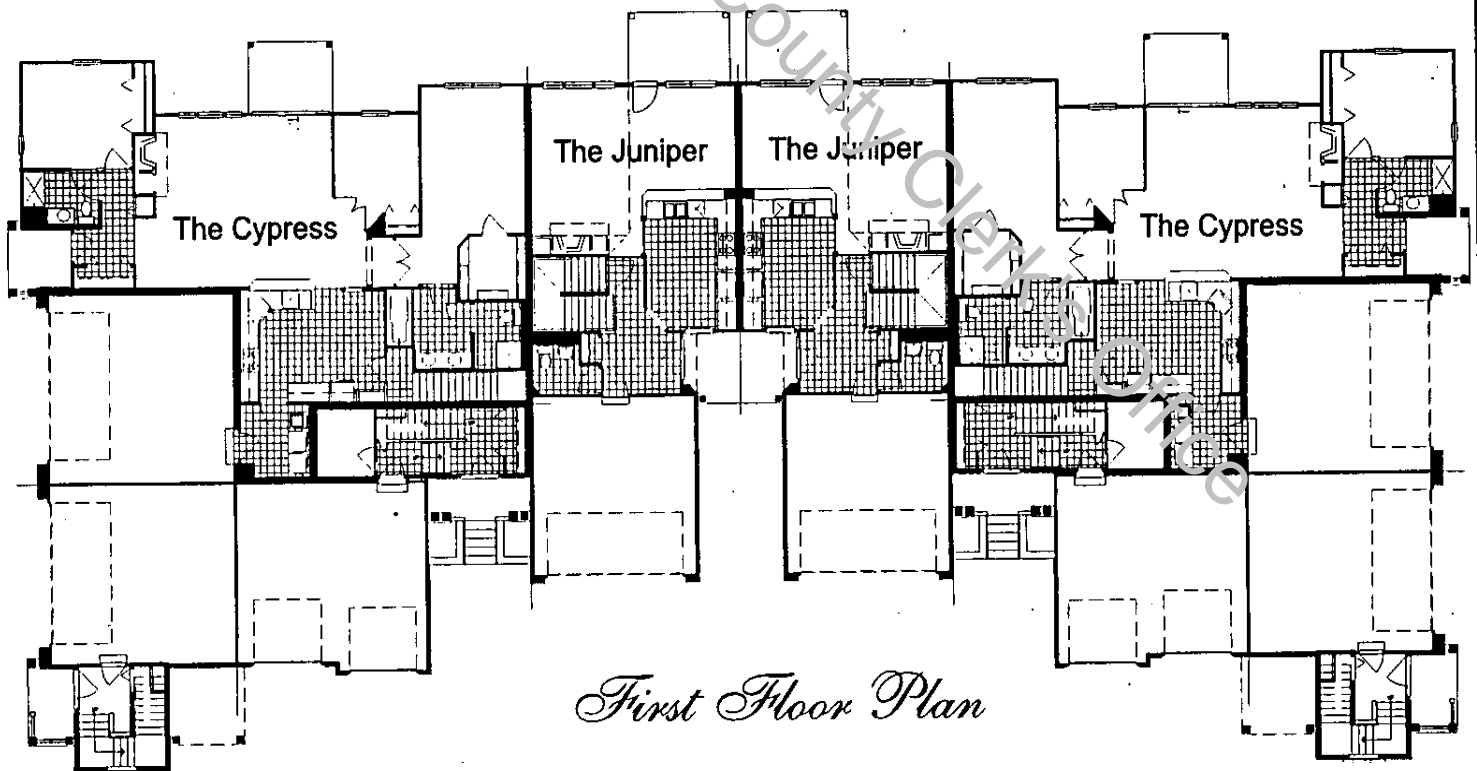
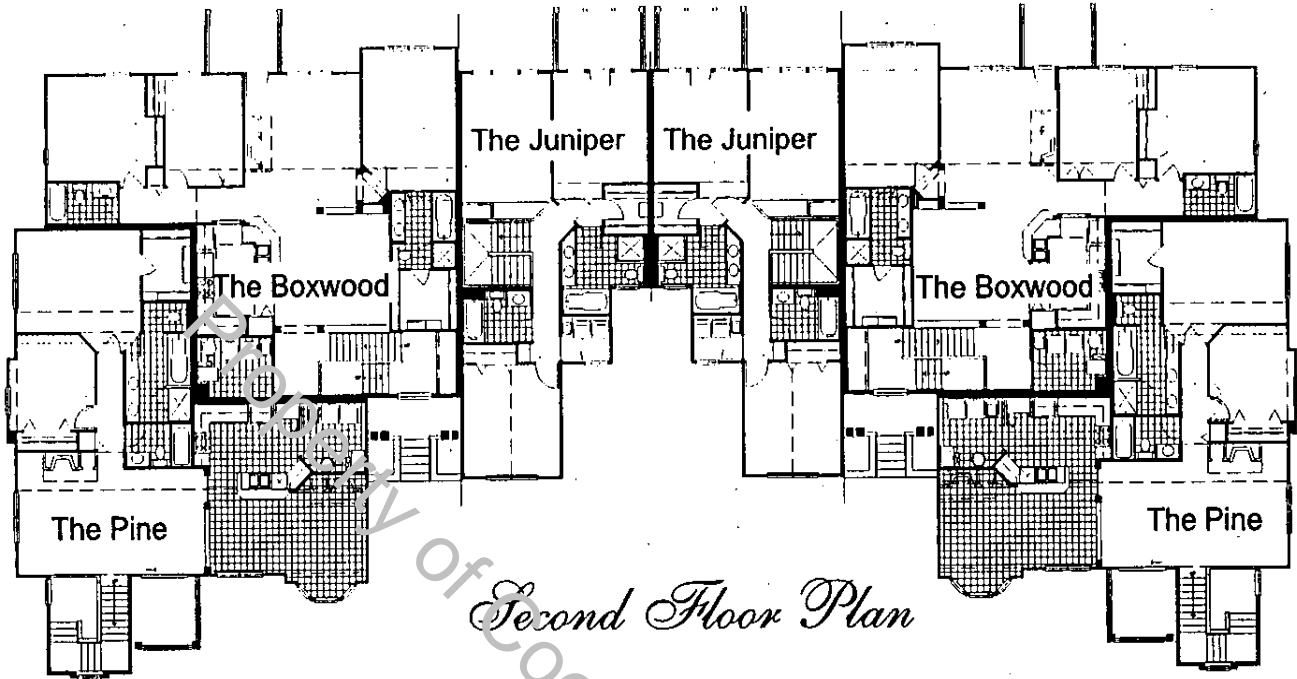


EXHIBIT "C"  
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# ASPEN

# HOMES

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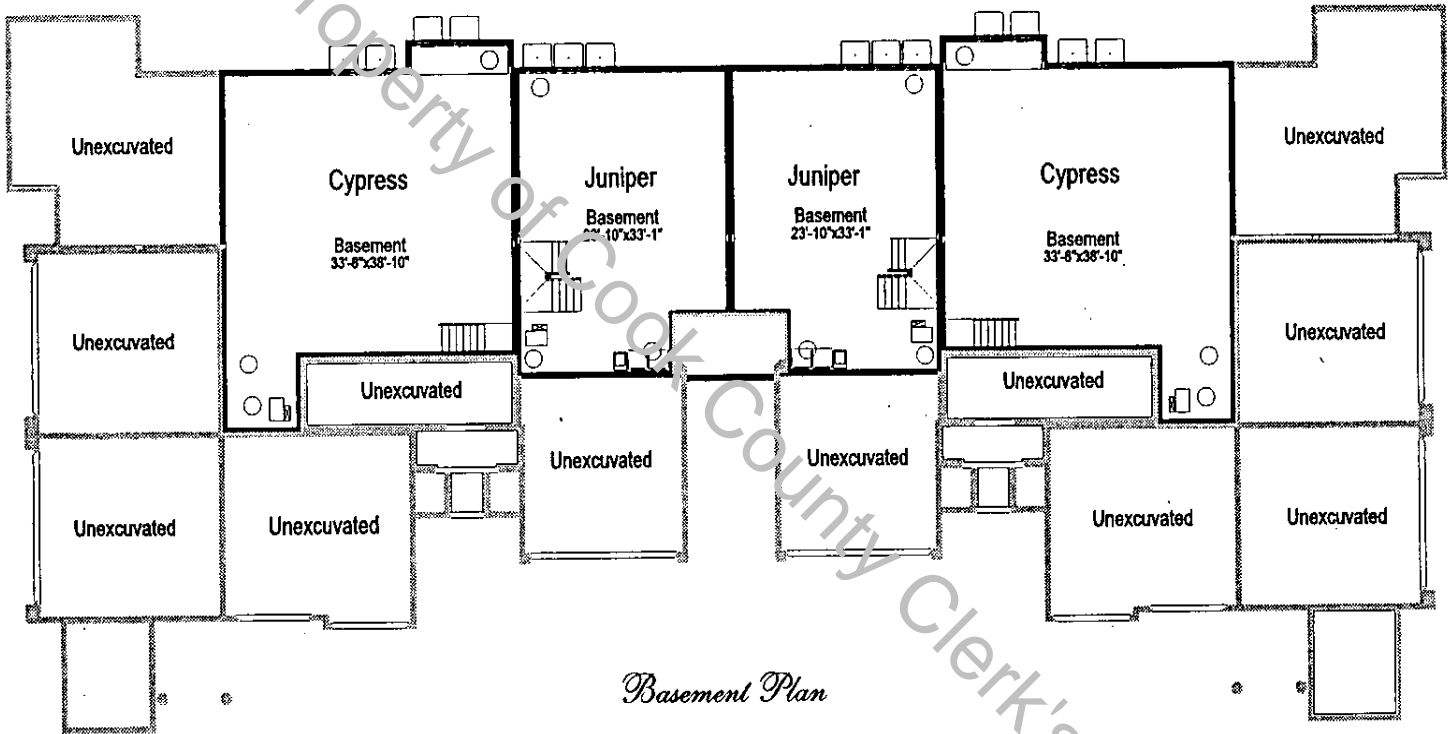
"We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin."



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## Basement

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Basement Plan

EXHIBIT "C"  
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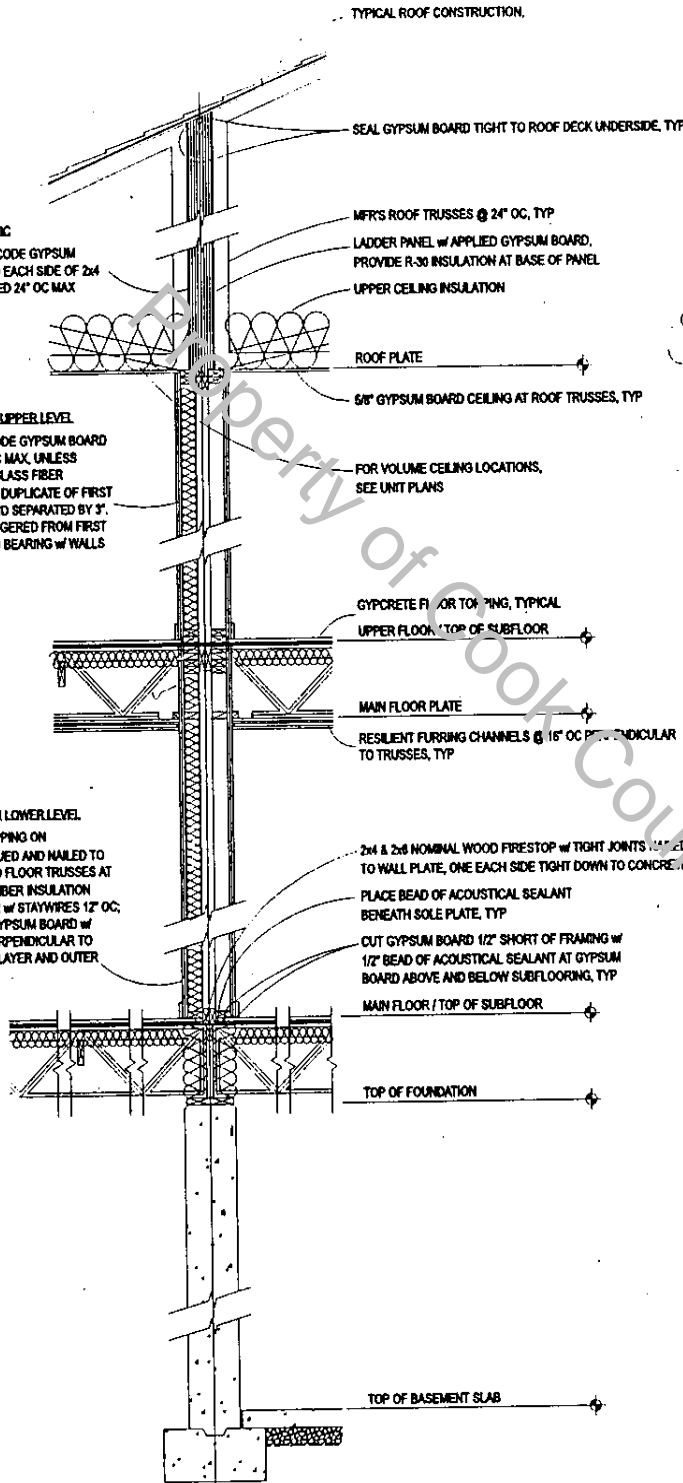
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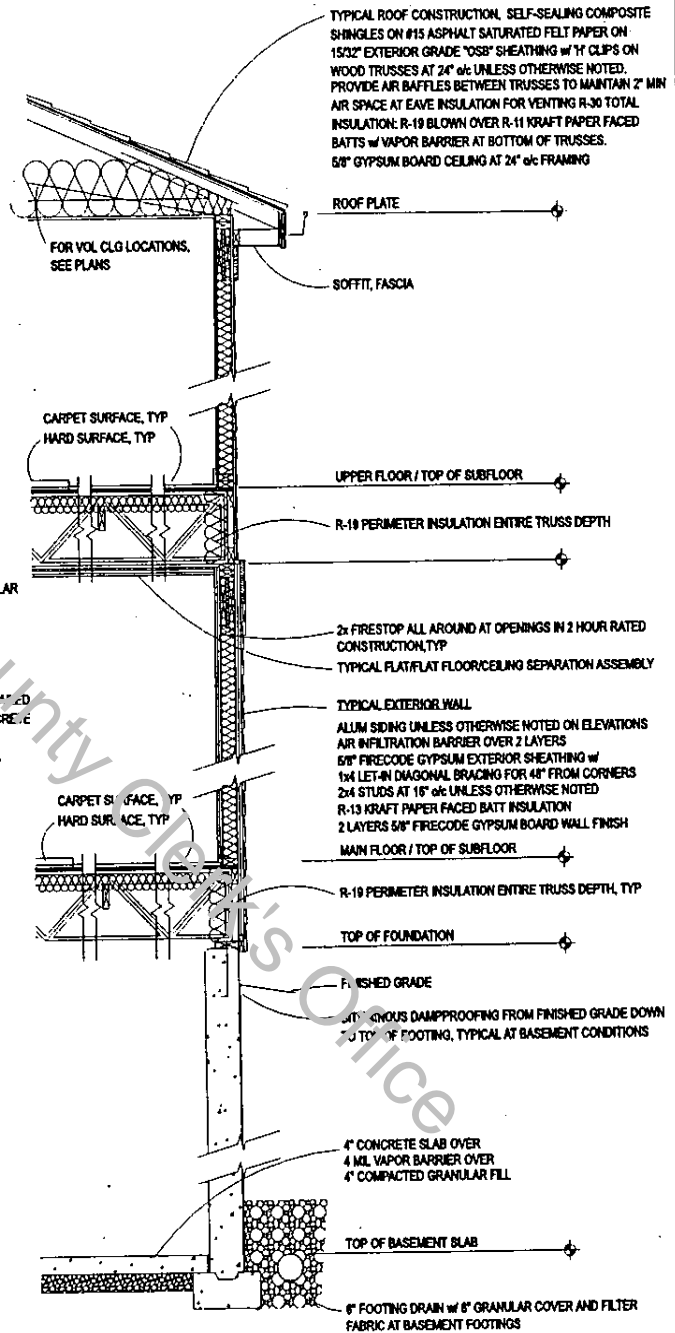
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## Wall Section

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Separation Wall



Exterior Wall Construction

EXHIBIT "C"  
12 of 12



HOMES

Aspen Grove LLC's policy of continual improvement in design and construction requires that specifications, equipment, dimensions and prices be subject to change without notice. Refer to plans and specifications in the Sales Office for current details.

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PLAN COMMISSION  
Tuesday, July 6, 1999

Present: Dennis Dwyer, Teri Williams Marilyn Meller, Bob Greenlees, Russ Smith, Conrad Hansen, Alan Miller, Bill Laymon, Planning and Zoning Administrator David Fieldman.  
Absent: Kevin Thomas, Greg Kolar.

Minutes of the June 15 meeting were approved as distributed.

Aspen Homes - Illinois Avenue & Plum Grove Rd. - Final PUD Approval  
Final PUD approval is sought for a development of 20 townhomes on 2.6 acres at Illinois ave. and Plum Grove rd.

The following Petitioner's Exhibits were introduced:

1. Petition for Final PUD and Rezoning to P
2. Warranty Deed
3. Engineering Plans revised 6/1/99
4. Landscape Plan revised 5/29/98
5. Site Plan
6. Plat of Subdivision
7. Floor Plans and Elevations revised 11/2/98
8. Sales Brochure
9. Minutes of 10/26/98 Plan Commission Meeting
10. Minutes of 11/2/98 Village Council Meeting
11. Minutes of 11/9/98 Village Council Meeting
12. Palatine Real Estate Interest Disclosure Form
13. Affidavit

David Fieldman described surrounding uses and zones and gave background on the request.

north	Single Family	R2
north & east	Single Family	R2
south	Planned Development	P
west	General Business District	B2

The parcel currently is vacant. The petitioner, owner of the property, wishes to build 20 townhomes for which preliminary planned development approval with conditions was granted November 9, 1998. The petitioner now seeks final planned development approval.

The analysis of the petitioner's compliance with 14 conditions of preliminary planned development approval is attached as Attachment 1.

Bruce Hawkins and Roger Castle, partners in Aspen Homes, showed drawings of the proposed development. The townhomes would be a mix of ranches (6), stacked flats (12), and two-story (2). Exteriors will be stone. An option for the deck to be enclosed into a sun room exists. Price range is \$225,000-275,000. Trees cannot be saved, Hawkins said, because of required grading to the pond, which will be a detention, not retention, pond. He stressed that they are providing their own site drainage system rather than relying on IDOT.

Gus Scalchas said he lives next to the site on Plum Grove rd. He is concerned about drainage and how his property will be affected.

Staff Recommendation

Staff recommends approval of the final planned development subject to the following conditions:

1. The subdivision shall substantially conform to the final engineering plans (10 sheets) by P&D Consultants, dated 2/15/99, last revised 6/1/99, and to the site plan by Barrington Engineering, Ltd., received by the village on June 23, 1999, and to the Landscape Plan by J.J. Hayden, Inc., dated 3/3/98, last revised 5/29/98, and to the final plat of subdivision by Barrington Engineering, Ltd., dated 6/2/99, and to the Architectural Elevations and Floor Plans attached hereto as Exhibit A and the Declarations of Covenants, Conditions, and Restrictions attached hereto as Exhibit B and to the sales brochure attached hereto as Exhibit C, except as such plans may be changed to conform to village codes and ordinances and the following conditions.



plan commission  
july 6, 1999

page 2

2. A letter of credit to ensure the completion of public improvements in a form acceptable to the village and in the amount of \$215,615 and 10 percent cash bond shall be submitted prior to recording the plat.
3. A letter of credit to ensure the completion of the planned development in a form acceptable to the village and in the amount of \$50,000 shall be submitted prior to recording the plat.
4. The Declaration of Covenants, Conditions, and Restrictions shall be revised in a manner acceptable to the village attorney.
5. MWRD, IDOT, IEPA, and NWWC permits shall be obtained prior to the start of work.
6. Additional landscape material shall be planted along the north lot line near the detention basin, in a manner acceptable to the village.
7. Pro Rata contributions for the Plum Grove rd. reconstruction in the amount of \$9,500 shall be submitted prior to recording the plat.
8. The detention basin shall have a clay liner.

Hawkins said he can comply with said conditions.

**RECOMMENDATION**

Hansen moved, Laymon seconded that the plan commission recommend that the village council approve the request of Aspen Homes for a final planned development of 20 townhomes to be built on the vacant 2.6 acres at the northeast corner of Illinois ave. and Plum Grove rd. Such approval shall be conditioned upon petitioners' complying with eight (8) conditions listed above.

Unanimously carried

The chairman was authorized to sign the linen.

**Inverness Development Co. - Maple ave., Northwest hwy., Alva, Franklin ave. - Final Plat**  
Final PUD approval is sought for a development of 52 townhomes in 16 buildings in an area bounded by Northwest hwy., Maple ave., Alva st., and Franklin ave., to be known as Sutton Park Place - Phase III.

The following petitioner's exhibits were introduced:

1. Petition for final planned development approval and rezoning to P.
2. Palatine Real Estate Interest Disclosure Form
3. Affidavit
4. Insurance Policy - 735 N. Maple ave.
5. Insurance Policy - vacant lots #18 and #19
6. Insurance Policy - lot #13
7. Title Insurance Policy - 729 N. Franklin
8. Title Insurance Policy - 734 N. Franklin
9. Title Insurance Policy - 739 N. Franklin
10. Title Insurance Policy - 760 N. Franklin
11. Title Insurance Policy - Lot #7
12. Title Insurance Policy - 867 & 875 W. Northwest hwy.
13. Title Insurance Policy - Lots #12 and #13
14. Title Insurance Policy - Lot #14
15. Title Insurance Policy - Lot #11
16. Plat of Subdivision
17. Plat of Vacation
18. Sanitary and Watermain Expansion Plan revised 6/14/99
19. Improvement Plans revised 5/3/99

**ANALYSIS:**

The following is an analysis of compliance with the 14 conditions of preliminary planned development approval. The conditions appear in italics. The status appears in bold.

- 1) *The planned development shall substantially conform to the engineering plans (3 sheets) by Horizon Design and Development Inc., dated 3/9/98, last revised 10/12/98 and to the Landscape and Tree Preservation Plan by J.J. Hayden, Inc., dated 3/3/98, last revised 10/13/98 and to Architectural Elevations and Floor Plans attached hereto as Exhibit "A" and the Declarations of Covenants, Conditions and Restrictions attached hereto as Exhibit "B", except as such plans may be changed to conform to Village Codes and Ordinances and the following conditions: Okay.*
- 2) *The Declarations of Covenants, Conditions and Restrictions shall be revised in a manner acceptable to the Village Attorney. This condition will remain a condition of final planned development approval. The Village Attorney is currently reviewing the Declarations.*
- 3) *A letter of credit to ensure the completion of public improvements in a form and amount acceptable to the Village shall be submitted prior to recording the plat. This condition will remain as a condition of final planned development approval. The letter of credit amount shall be \$215,615.00.*
- 4) *A letter of credit to ensure the completion of the planned development in a form and amount acceptable to the Village shall be submitted prior to recording the plat. This condition will remain as a condition of final planned development approval. The letter of credit amount shall be \$50,000.*
- 5) *All existing wells and septic systems shall be properly abandoned. Completed.*
- 6) *Demolition permits shall be obtained for the demolition of each structure. Completed.*
- 7) *MWRD, IDOT, IEPA, NWWC and USACOE permits are required. The Army Corps of Engineer's permit has been issued. The remaining permits shall be obtained prior to the start of work.*
- 8) *All requirements of a final planned development shall apply. The petitioner has addressed all requirements of a final planned development.*
- 9) *The final landscape and tree preservation plan shall reflect the approved site plan and shall indicate that all trees identified to be preserved on the preliminary plat shall be saved. The petitioner shall save additional trees, if possible. The final landscape plan and tree preservation plan reflect the final site and engineering plans. There are 17 trees identified to be preserved on the approved preliminary tree preservation plan which are identified to be removed on the final tree preservation plan. These trees are all located in or around the detention basin. The additional tree removal is required to properly grade the detention basin to provide the required detention volume. Additional landscape material should be located around the detention basin.*
- 10) *The final site plan shall clearly indicate that there is a 20 foot deep parking space located in front of each garage so that cars may park without overhanging the carriage walk. The final plans indicate that the driveways are 20 feet deep and clear of any sidewalk.*
- 11) *Detention shall be provided to compensate for the existing depression storage area on the site estimated at 0.13 acre feet of storage plus 100% of the required live stormwater storage for a 100 year storm event with an allowable release from the site sized to what the existing storm sewer system on Plum Grove Road can handle. The detention basin has been designed to comply with this condition. The Village Engineer has reviewed and approved the stormwater management plan, with the condition that the detention basin shall have a clay liner.*

Aspen Homes  
July 6, 1999

Attachment 1  
page 2

- 12) *Pro Rata contributions shall be made to the Plum Grove Road reconstruction project for the yet to be identified improvements that would benefit the proposed development such as curb and gutter along Plum Grove Road, streetlighting system and/or upgrading of the existing receiving storm sewer system along Plum Grove Road, with said pro rata contribution to be determined by the Village Council at final approval. This condition will remain as a condition of final planned development approval. The pro rata contributions are estimated to be \$9,500.*
- 13) *The final landscaping plan shall be acceptable to the Village Council. This condition will be reviewed by the Village Council.*
- 14) *All sales brochures and plans shall actually reflect the final approved plan and proofs of the brochures shall be included with the final plans for approval by the Village Council. The petitioner has submitted the sales brochures which appear to accurately reflect the site conditions. This condition will be reviewed by the Village Council.*

Property of Cook County Clerk's Office

DEPT. OF COMMUNITY DEVELOPMENT  
VILLAGE OF PALATINE

FOR OFFICE USE ONLY	
Zoning Docket #	_____
Property recorded in Torrens	_____
Filing Fee \$	_____
Date Filed	_____

PETITION FOR HEARING

FINAL PLANNED DEVELOPMENT  
AND REZONING TO "P"

99719936

PLEASE TYPE OR PRINT IN INK:

1. Name of Petitioner(s): ASPEN HOMES INC.  
 Address: 1700 RAND RD. SUITE 101, PALATINE IL 60074  
 Telephone No. OFFICE 202-1807 Business Telephone No. SAME City, State, Zip

2. Authorized Agent of Petitioner (if different):  
 Name: BRUCE HAWKINS  
 Address: 1700 RAND RD, PALATINE IL 60074  
 Telephone No. SAME AS ABOVE City, State, Zip

3. Property interest of Petitioner(s): OWNER  
Owner, Lessee, Contract Purchaser, etc.

4. Address of the property for which this application is being filed: 749 PLUM GROVE RD.  
 \_\_\_\_\_ Palatine, Illinois

5. All existing land uses on the property are: VACANT

6. Current zoning of property in question: R1-A Size of the property: 2.5 acres

7. Briefly describe the final Planned Development plan. Discuss any changes to the final plan which are different from the approved preliminary plan, if any.  
ASPEN GROVE WOULD CONSIST OF 20 MULTI-FAMILY UNITS. THERE ARE (4) RANCH STYLE UNITS, (12) STACKED FLATS AND (2) TOWNHOMES. ALL WILL HAVE 2 CAR GARAGES AND 8 UNITS WILL HAVE FULL BASEMENTS.

8. Attach a list of the Conditions of Preliminary Approval (if any). Describe on a separate sheet how the Conditions of Preliminary Approval have been or will be satisfied in the final development plans. All conditions of preliminary approval must be satisfied before this item will be scheduled for a public hearing.

*Attached*

PETITIONER'S EXHIBIT

# 1

- 9. The attached Checklist of Documents outlines all required submittals before a project may be scheduled for the required public hearing by the Plan Commission. All required documents must be submitted with this petition. Return the completed checklist along with the required submittals.
- 10. This applicant's signature below indicates that the information contained in this application and on any accompanying documents is true and correct to the best of his(her) knowledge.

Date: 4/7/99 Bruce W. Hawkins

SUBSCRIBED AND SWORN to before me this  
7 day of April, 1999.

Abigail K. Hawkins  
Notary Public



VILLAGE OF PALATINE

REAL ESTATE INTEREST DISCLOSURE FORM

Check applicable proceeding:	
<input type="checkbox"/> Annexation	<input type="checkbox"/> Rezoning
<input type="checkbox"/> Special Use	<input type="checkbox"/> Variation
<input type="checkbox"/> Condemnation	<input type="checkbox"/> Other

1. Name of Disclosing Party (individual, business firm, partnership, corporation, etc.):

ASPEN HOMES INC.

2. Address of Disclosing Party:

1700 RAND RD PALATINE, FL 60074

3. Brief description of the petition: ZONING REQUESTED FOR A 20 UNIT MULTIFAMILY P.U.D.

4. Common street address of real estate or general description:

PLUMGROVE AND ILLINOIS

5. Legal description of real estate: SEE ATTACHED LEGAL DESCRIPTION ON ITEM # 5 OF ATTACHED TITLE COMMITMENT.

5a. PLEASE PROVIDE PROOF AS TO WHETHER OR NOT THIS PROPERTY IS REGISTERED UNDER TORRENS ACT. - SEE ATTACHED TITLE COMMITMENT.

6. The name, address, legal nature, and extent of interests of any persons deriving an interest from or through the disclosing or filing party:

Name	Address	Legal Nature and Extent of Interest
<u>BRUCE W. HAWKINS</u>	<u>1700 RAND ROAD, PALATINE, IL</u>	<u>50% OWNER OF ASPEN HOMES</u>
<u>ROGER M. CASTLE</u>	<u>1700 RAND ROAD, PALATINE, IL</u>	<u>50% OWNER OF ASPEN HOMES</u>

(If additional space is required, please use reverse side or attach rider.)

7. I swear (or affirm) that there are no other persons deriving any interest from or through me or from or through any other person or entities above set forth in the property which is the subject of the contract or application for which I am filing this disclosure notice whom I have not disclosed. I understand that if there are any changes in the interest disclosed in this disclosure notice during the terms of the subject contract or before the Village has taken final action on the matter for which this disclosure notice is filed, I shall file a subsequent disclosure notice disclosing such changes.

Bruce W. Hawkins  
Signature of Disclosing Party

SUBSCRIBED AND SWORN TO before me this 25 day of September 1998.

Karen L. Zimmerman  
Notary Public.



PETITIONER'S EXHIBIT

# 12



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

AFFIDAVIT

BRUCE HAWKINS, an individual, OR the PRESIDENT  
of ASPEN HOMES INC., being first duly sworn, on oath,  
Name of Firm or Corporation Title of Office

deposes and says:

1. ASPEN HOMES INC. has filed with the Village of Palatine, concurrently  
herewith, a petition for REZONING  
Rezoning, Variation, Zoning Change, Special Use, Planned Development, etc.

with respect to the property located at PLUM GROVE AND ILLINOIS  
2. Affiant is the PRESIDENT of ASPEN HOMES INC.  
Title Name of Firm or Corporation

3. Affiant has received and examined a true copy of Sec. 2-442 of the Village of Palatine Code of Ordinances entitled: "Disclosure statements and conflict of interest disclaimers."

4. Affiant understands said Section of the Code of Ordinances and states that he (or his corporation) has not retained, nor will be represented by, any person in violation of said Section.

Bruce W. Hawkins  
Signature of Affiant

SUBSCRIBED AND SWORN to before me this 25 day of September, 1998.

Karen L. Zimmerman  
Notary Public



PETITIONER'S EXHIBIT

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### RECOMMENDATION

Greenices moved, Laymon seconded that the plan commission recommends that the village council approve the final plat for a 32-unit condominium development to be known as Landmark Condominiums at 104 N. Plum Grove rd + Methodist Church Parking lot to the north. Such approval shall be contingent upon the petitioner's complying with six staff conditions listed above and a seventh condition from the plan commission that the outdoor parking lot and driveway shall be screened with a densely planted hedge or a solid board-on-board fence 6 feet in height in a manner acceptable to the village, with a 5-foot setback from Wilson st. and Plum Grove rd. rights-of-way. (This wording replaces that of #6 in the "Analysis".)

Unanimously carried.

### Report of Public Hearing -- P-98-43

The notice of public hearing was read by the acting chairman. The petitioner in Docket P-98-43, Aspen Home, seeks approval of a preliminary plan for PUD for 20 townhomes to be known as Aspen Grove and rezoning from R1A to P upon final planned development approval for 2.6 acres at the northeast corner of Illinois ave. and Plum Grove rd.

The following Petitioner's Exhibits were introduced:

1. Petition for Preliminary PUD
2. Palatine Real Estate Interest Disclosure Form
3. Affidavit
4. Title Insurance Policy
5. Real Estate Sales Contract
6. Topographic Survey
7. Engineering Plans
8. Landscape Plan
9. Floor Plans and Elevations

David Fieldman was sworn in. He described surrounding uses and zones and gave background on the request.

north & east	Planned Development	P
south	Planned Development	P
west	General Business District	B2

The subject site, shown as office use with limited access to Plum Grove rd. on the Comprehensive Plan, is currently improved with a single family home and a detached garage. The petitioner, contract purchaser of the property, wishes to demolish the existing structures and construct 20 townhomes for which he seeks the approval of his preliminary PUD and rezoning from R1A to P. The townhomes would be located in three buildings on the site that is approximately 281 feet wide and 380 feet deep. Building #1 would contain eight units and would be located in the northeast corner of the site. It would be set back 73 feet from the north side lot line and 43 feet from the east side lot line. Building #2 would contain six units and would be located in the southeast corner of the site, set back 30 feet from the south lot line and 52 feet from the east lot line. Building #3 would also contain six units and would be located in the southwest corner of the site, set back 30 feet from the west side lot line and 30 feet from the south side lot line. Buildings #2 and #3 would be separated by 58 feet. A detention basin would be located in an outlet (about 128' x 122').

### Vehicular and Pedestrian Traffic

Vehicular access would be provided by a private street running through the middle of the site. It would connect to Plum Grove rd. on the west side of the site and to Illinois ave. on the southeast corner of the site. Initial comments submitted from IDOT indicate that the curb cut on Plum Grove rd. would be limited to a right-in/right-out only. The curb cut on Illinois ave. would allow for a full range of turning movements. The street would be 28 feet wide back-to-back, meeting village code. It would be located in an outlet 30 feet wide and would be owned and maintained by the Homeowners Association.

A traffic study based on 23 townhomes indicates that, on average, 134 trips per day would be generated by the development, 10 of these during the peak morning hour and 12 during the peak afternoon hour. These would have little impact on existing traffic volumes.

PETITIONER'S EXHIBIT

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Three on-street parallel guest parking spaces would be located near the detention outlot, and an additional three on-street guest spaces would be located across from Building #2. Vehicle access to the units would be provided by a series of private driveways. The eight units in Building #1 would be served by four driveways connecting directly to the private street in front of the building. One driveway on the east side and one on the west side of the building would connect to the private street and would provide access to two units each. The garages for the units accessed by these drives would be side-loaded. In addition to the two garage spaces provided for each unit, a 20-foot deep space to park two vehicles would be provided in front of each garage. Buildings #2 and #3 would be served by a similar driveway design with two driveways in the front of each building. Buildings #2 and #3 would share a common driveway located between the two buildings. A total of 86 parking spaces is proposed.

Pedestrian access would be provided by a 4-foot wide carriage walk on one side of the private street. Public sidewalk would also be provided along the Illinois ave. and Plum Grove rd. frontages. Sidewalks would meander around existing trees.

#### *Engineering Issues:*

A wetland is located on the site. In 1996, the Army Corps of Engineers issued a nationwide permit to fill in the wetland. At that time, any wetland smaller than 1 acre was eligible to be filled under the nationwide permit. Current COE regulations permit only those wetlands smaller than .33 acres to be filled under the nationwide permit. The exact size of this pond is not known. It could range from .26 acres to .56 acres. The petitioner will continue to work with the Corps of Engineers (COE) to determine the exact size. The COE has indicated that if it is larger than .33 acres, the petitioner must contribute cash to an off-site wetland mitigation project. If it is less than .33 acres, it may be filled under the nationwide permit. In either case, the wetland will not affect the site plan for this parcel.

Under the village zoning ordinance, the low lying area on the site is considered depressional storage. The village engineer has determined that the depressional storage area is about .26 acres in size and has a storage capacity of .13 acre feet. Per the ordinance, filling in depressional storage areas larger than .25 acres requires provision of compensatory storage. Required compensatory storage would be provided in the bottom of the detention basin, which would be a wet bottom design.

Stormwater run-off will be handled by a series of storm sewers which will be located in the rear of Buildings #2 and #3 and along the north lot line of the site. Storm sewers will collect run-off and direct the water to the detention basin, which would release the water at historic rates to the existing drainage ditch system in the Plum Grove rd. right-of-way. The basin would be designed to hold 75 percent of the required detention volume and all of the required compensatory storage for the depressional area. Cash in lieu of detention for the remaining 25 percent of the detention requirement should be collected or additional detention should be provided in oversized storm sewers.

Water would be provided from a new watermain extending from an existing main located in the Illinois ave. right-of-way through the site and connecting to an existing main located in the Plum Grove rd. right-of-way. A new sanitary sewer would be extended along the Plum Grove rd. frontage of the site and would connect to an existing sewer in the Illinois ave. right-of-way.

#### *Tree Preservation and Landscaping*

A tree survey indicates that the site is heavily wooded along the south lot line with significant trees located in the northwest corner of the site. The tree preservation and landscaping plan indicates that a large area of trees in the Illinois ave. right-of-way and along the west boundary of the site would be preserved. In total 57 trees with diameters larger than 4 inches in diameter would be preserved, providing screening from the Illinois ave. right-of-way.

Parkway trees would be provided pursuant to village code along the private street, and significant amounts of evergreen trees and other plant materials would be planted throughout the site. A landscape buffer would be provided along the north side of the site.

#### *Architectural Design*

The exterior of the buildings would be constructed with siding, stone, and stucco. Four types of units are proposed. Unit A would have a garage and entrance on the first floor with all 1600 square feet of living space, including two bedrooms and two baths, on the second floor. Unit B would also have a garage and entrance on the first floor. It would contain 3 bedrooms and 2 baths on the second floor in 1870 square feet. Unit C would be located entirely on the first floor and would contain three bedrooms and 2 baths in 1635 square feet. Unit D, 1540 square feet in area, would be a standard townhouse design with two floors and a basement. It would contain 3 bedrooms and 2.5 baths.

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The following persons were sworn in to address the petition:  
Bruce Hawkins, President of Aspen Homes  
Dave Humbert, Design engineer

Hawkins described the four units which he said would sell for between \$200,000 and \$235,000 and contain an average of 1,650 square feet. He said it would take 15 months to build the project. He said he felt all engineering questions and concerns raised by the village have been addressed. He said he feels comfortable saying they will save many trees on site, noting they are leaving a nice tree buffer on Illinois and leaving as many as possible on other sides of the parcel. He proposes 45 percent open space.

The water table is deep, he said, noting that everything settles just east of Plum Grove rd. As one goes further east, the water is not held. He will be alleviating water flow from the north, he said, but he will be filling the site.

The depth of the pond is tied to the depth of pipe in Plum Grove rd. according to Humbert. He said the high water depth will be 27 inches. Low water depth is still being worked on.

Fieldman interjected that the village engineer would approve nothing that would make flooding worse. In an area prone to bad flooding such as this one, the proposed engineering will improve the situation.

Gus Scalchas, 729 Plum Grove rd. was sworn in. He questioned how his property would be affected by the handling of water on the condominium site. He was told that his situation will be improved by the addition of large storm water pipes and faster flow draining property to the north.

No fence is proposed for the north property line, Hawkins said. The area will be bermed and landscaped.

Joe Kiszka, District #25, was told the bedroom mix would be 12 2-bedroom and 8 3-bedroom.

## Staff Recommendation

Staff recommends approval of the preliminary planned development and rezoning to P upon final planned development approval, subject to the following conditions:

1. The planned development shall substantially conform to the engineering plans (3 sheets) by Horizon Design and Development, Inc., dated 3/9/98, last revised 10/12/98, and to the Landscape and Tree Preservation Plan by J.J. Hayden, Inc., dated 3/3/98, last revised 10/13/98, and to Architectural Elevations and Floor Plans attached hereto as Exhibit "A" and the Declarations of Covenants, Conditions, and Restrictions attached hereto as Exhibit "B", except as such plans may be changed to conform to village codes and ordinances and the following conditions:
2. The Declarations of Covenants, Conditions, and Restrictions shall be revised in a manner acceptable to the village attorney
3. A letter of credit to ensure the completion of public improvements in a form and amount acceptable to the village shall be submitted prior to recording the plat.
4. A letter of credit to ensure the completion of the planned development in a form and amount acceptable to the village shall be submitted prior to recording the plat.
5. All existing wells and septic systems shall be properly abandoned.
6. Demolition permits shall be obtained for the demolition of each structure.
7. MWRD, IDOT, ILEPA, NWWC (Northwest Water Commission), and USACOE permits are required.
8. All requirements of a final planned development shall apply.
9. The final landscape and tree preservation plan shall reflect the approved site plan and shall indicate that all trees identified to be preserved on the preliminary plan shall be saved. The petitioner shall save additional trees, if possible.
10. The final site plan shall clearly indicate that there is a 20 foot deep parking space located in front of each garage so that cars may park without overhanging the carriage walk
11. Additional detention shall be provided in lieu of detention for 25 percent of detention volume not handled by the basin shall be paid prior to recording the plat.

Hawkins said he can comply with staff conditions.

It was noted that the development of adjacent properties had changed the thinking from what the comprehensive plan shows to what is proposed.

The public hearing closed at 9:10 p.m.

During discussion, Laymon said he notes the area seems to be going multi-family. How far north will this trend for development extend? Thomas said he feels that townhomes rather than strip malls are preferable here.

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Hansen said he concurs. He is not going to recommend that townhomes be prohibited from development north of Illinois.

Laymon expressed concern about standing water. How much will be standing? he asked. Fieldman said this development could not be built without standing water. Laymon is concerned about children's safety and questions whether it might not be prudent to fence the wet detention area. He said he is able to live with the BOCA code.

## RECOMMENDATION

There was moved, Greenlee seconded that the plan commission recommend to the village council that it approve the request of the petitioner in Docket P-98-43, Aspen Homes, who seeks approval of a preliminary plan for PUD for 20 townhomes to be known as Aspen Grove and rezoning from R1A to P upon final planned development approval for 2.6 acres at the northeast corner of Illinois ave. and Plum Grove rd. Said approval shall be conditional upon developer's complying with staff conditions listed above.

Unanimously carried.

## Communications

To observe election day, no meeting will be held November 3, 1998

The meeting was adjourned at 9:25 p.m.

Natalie Meyer McKenzie  
secretary

Property of Cook County Clerk's Office

COMMITTEE OF THE WHOLE  
MONDAY, NOVEMBER 2, 1998  
PAGE 2

CHAIRMAN WAGNER CALLED TO ORDER THE MEETING OF THE COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE AT 8:12 P.M.

1. PROPERTY LOCATED AT 104 N. PLUM GROVE ROAD (BURKART). DISTRICT 6.
  - A. CONSIDER A SPECIAL USE FOR A PLANNED DEVELOPMENT
  - B. CONSIDER REZONING THE PROPERTY FROM B-1 TO P

Councilman Jezierski moved to recommend approval of A and B, 2nd by Councilman Kostka.

Councilman Kostka questioned why a four foot fence is recommend by Staff.

R. Kozdras stated that the fence would border the church and multi-family unit. The four foot fence is believed to created a more open feeling.

Councilman Kostka moved to amend the motion to change the 6 foot fence to a 4 foot fence, 2nd by Councilman Varroney. The motion to approve A and B and the amendment motion passed 7-0.

2. CONSIDER PRELIMINARY PLANNED DEVELOPMENT APPROVAL FOR A 20 TOWNHOME DEVELOPMENT FOR PROPERTY LOCATED AT THE NORTHEAST CORNER OF ILLINOIS AND PLUM GROVE ROAD (HAWKINS). DISTRICT 2.

Councilman Kostka moved to deny the preliminary Planned Development, 2nd by Councilman Varroney.

Chairman Wagner requested that a motion to approve be made to clarify the vote later in the evening.

Councilman Kostka moved to recommend approval of a preliminary Planned Development, 2nd by Councilman Varroney.

Councilman Wilson questioned the residential use of the property when the Village Land Use Plan calls for an Office development.

Gus Scalches, 729 Plum Grove Rd., expressed concerns of the drainage for the development.

Chairman Wagner asked Mr. Scalches if the developer resolves the drainage issue, would he be in favor of the development.

Mr. Schalcher stated that if the drainage issue is resolved, he as not objections to the development.

Bruce Hawkins, the petitioner and President of Apsen Homes, stated that the latest engineering plans will handle 100% of the on-site water. Mr. Hawkins has explained the landscape buffer on the north side of the development will contain all the rain water within the development.

Councilman Wilson questioned the design of the berm on the proposed plans.

Dave Humbert, the design engineer, stated the berm will be about 80-85 feet for a home, be approximate 2-2 1/2 feet in height and 3-5 feet wide in areas. The berm will expand about 100 feet east and west.

Councilman Jeziercki questioned if the development has plans for curbs and gutters.

PETITIONER'S EXHIBIT

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Mr. Hawkins stated that IDOT has plans to improve Plum Grove Road and only require a right-in and a right-out access requirements.

M. Cassady stated the developer will be required to place funds in an escrow to add the improvement of curb and gutters after the improvements of Plum Grove Road are completed. M. Cassady stated the Village does not want the developer to add the curbs and gutters, only to have IDOT remove them during Plum Grove Road improvements.

Councilman Jezierski questioned the density of the development compared to neighboring developments.

D. Kozdras stated that this proposed density is the least dense compared to the neighboring developments.

Councilman Solberg questioned the impact difference between a residential project and an office development.

D. Kozdras stated that a residential project has less impact because of the lack of parking requirements and other reasons.

Councilman Jezierski questioned the cost of each unit.

Mr. Hawkins stated that each unit will cost between \$200,000 and \$250,000.

Councilman Jezierski questioned the design appearance of the development.

Councilman Solberg expressed concern over the Village's preliminary approval process, because of all the required information the developer must present.

Mr. Hawkins stated that he has worked with Village Staff for over 9 months on many issues including drainage to be prepared for questions by the Council.

Councilman Jezierski questioned the amount of parking space available to the residents.

Mr. Hawkins stated that each unit has 2 car garage and 2 spaces in the driveway and a Home Owners Association will be maintaining the private streets in the development.

Chairman Wagner requested that the Village Engineer answer some drainage questions and requested Terry Leighty to address the question of parking.

Terry Leighty stated that an average housing unit uses 4 parking spaces, however cannot express an opinion of the development without additional research.

M. Cassady stated that the proposed development parking exceeds the Village code requirements.

Councilman Solberg motioned to move this item to the Council without a recommendation, 2nd by Mayor Mullins.

Chairman Wagner continued the discussion to next week's meeting at 7:30 p.m.

Chairman Wagner adjourned the Community & Economic Development Committee Meeting at 9:32 p.m., without any objections.

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broadcasts their Restaurant inspection results. Mayor Mullins stated that we are being proactive in addressing our system of inspection - there has been no incident here driving the issue. After several motions and substitute motions, Councilman Wilson, seconded by Councilman Wagner, moved to table this subject until we have the most recent information on Restaurant inspections from the Illinois Department of Public Health and doctors from the Center for Disease Control. Voice vote - MOTION CARRIED

## BUSINESS FINANCE & BUDGET - COUNCILMAN VARRONEY

No report.

## COMMUNITY & ECONOMIC DEVELOPMENT - COUNCILMAN WAGNER

### RESOLUTION #R-93-98 GRANTING FINAL SUBDIVISION APPROVAL - LAREDO PLAZA SHOPPING CENTER - 1150 E. DUNDEE ROAD AND 1164-1218 E. DUNDEE ROAD (TACO BELL/WEISS) DISTRICT #4

Councilman Jezierski, seconded by Councilman Solberg, moved to adopt a Resolution granting final Subdivision Approval for Laredo Plaza Shopping Center at 1150 E. Dundee Road and 1164-1218 E. Dundee Road.

Upon Roll Call: Ayes: Council Members Jezierski, Wilson, Solberg, Wagner and Kostka  
Nays: None  
Absent: Councilman Varroney

MOTION CARRIED

### ORDINANCE #O-175-98 GRANTING A SPECIAL USE FOR A TACO BELL RESTAURANT AND RELATED SIGN VARIATIONS FOR PROPOSED LOT 3 - LAREDO PLAZA SHOPPING CENTER

Councilman Kostka, seconded by Councilman Solberg, moved to pass an Ordinance granting a Special Use for a Taco Bell Restaurant and related sign variations for proposed Lot 3, with waiver of first reading. The Council discussed the advisability of granting a 35' high pylon sign. Among issues discussed was the possibility of setting a precedent and the fact that there are other 35' high signs along that particular strip of Dundee Road. It was suggested that the Village adopt a policy of planting trees that grow to 25' maximum in these commercial areas.

Upon Roll Call: Ayes: Council Members Jezierski, Wilson, Solberg, Wagner and Kostka  
Nays: None  
Absent: Councilman Varroney  
Mayor Mullins voted Nay

MOTION CARRIED

### ORDINANCE #O-176-98 GRANTING LOT WIDTH VARIATIONS FOR LOTS 2 AND 3 - LAREDO PLAZA SHOPPING CENTER

Councilman Wagner, seconded by Councilman Jezierski, moved to pass an Ordinance granting lot width variations for Lots 2 and 3 of the Laredo Plaza Shopping Center subdivision, with waiver of first reading.

Upon Roll Call: Ayes: Council Members Jezierski, Wilson, Solberg, Wagner and Kostka  
Nays: None  
Absent: Councilman Varroney

MOTION CARRIED.

### PRELIMINARY PLANNED DEVELOPMENT APPROVAL FOR 20 TOWNHOMES IN THREE BUILDINGS FOR THE VACANT 2.6 ACRES AT THE NORTHEAST CORNER OF ILLINOIS AND PLUM GROVE ROAD (ASPEN GROVE)(HAWKINS) DISTRICT #2

Councilman Jezierski, seconded by Councilman Solberg, moved preliminary approval of a Planned Development containing 20 townhomes in three buildings for the vacant 2.6 acres at the Northeast Corner of Illinois and Plum Grove Road, subject to eleven conditions.

The Council discussed flooding, aesthetics, and parking. Bruce Hawkins, President of Aspen Homes came forward to address these issues. He stated they were sensitive to tree preservation and had cut their density to 7.7 (total of 20 units). Council Members Wagner and Solberg stated that they wanted to make sure that any brochures are accurate and that people receive what they believe they were sold. Councilman Kostka warned them to be aware of the old farm drain tiles. Russ Scalchas stated his concern was water run-off.

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Village Engineer Michael Danecki spoke to the flooding issues. 100% retention of 100 year storm. Retain depression detention. Release on existing system in Plum Grove Road. May need slower release to compensate. He believed their design would work. The Council modified Condition #11 and worked out additional conditions as follows:

1. The planned development shall substantially conform to the engineering plans (3 sheets) by Horizon Design and Development Inc., dated 3/9/98, last revised 10/12/98 and to the Landscape and Tree Preservation Plan by J.J. Hayden, Inc., dated 3/3/98, last revised 10/13/98 and to Architectural Elevations and Floor Plans attached hereto as Exhibit "A" and the Declarations of Covenants, Conditions and Restrictions attached hereto as Exhibit "B", except as such plans may be changed to conform to Village Codes and Ordinances and the following conditions:
2. The Declarations of Covenants, Conditions and Restrictions shall be revised in a manner acceptable to the Village Attorney.
3. A letter of credit to ensure the completion of public improvements in a form and amount acceptable to the Village shall be submitted prior to recording the plat.
4. A letter of credit to ensure the completion of the planned development in a form and amount acceptable to the Village shall be submitted prior to recording the plat.
5. All existing wells and septic systems shall be properly abandoned.
6. Demolition permits shall be obtained for the demolition of each structure.
7. MWRD, IDOT, IEPA, NWLVC and USACOE permits are required.
8. All requirements of a final planned development shall apply.
9. The final landscape and tree preservation plan shall reflect the approved site plan and shall indicate that all trees identified to be preserved on the preliminary plan shall be saved. The petitioner shall save additional trees, if possible.
10. The final site plan shall clearly indicate that there is a 20 foot deep parking space located in front of each garage so that cars may park without overhanging the carriage walk.
11. Detention shall be provided to compensate for the existing depressional storage area on the site estimated at 0.13 acre feet of storage plus 100% of the required live stormwater storage for a 100 year storm event with an allowable release from the site sized to what the existing storm sewer system on Plum Grove Road can handle.
12. Pro Rata contributions shall be made to the Plum Grove Road reconstruction project for the yet to be identified improvements that would benefit the proposed development such as curb and gutter along Plum Grove Road, streetlighting system and/or upgrading of the existing receiving storm sewer system along Plum Grove Road, with said pro rata contribution to be determined by the Village Council at final approval.
13. The final landscaping plan shall be acceptable to the Village Council.
14. All sales brochures and plans shall actually reflect the final approved plan and proofs of the brochures shall be included with the final plans for approval by the Village Council.

Mr. Scalchas was concerned about culvert cleaning. The Homeowner Association should maintain the culvert or the Village can clean it and charge them back. Mr. Scalchas was afraid the water might affect his septic system. Councilman Jezierski asked if the Developer could provide a stub for the neighbor to connect and Mr. Hawkins agreed.

Councilman Wilson said that he could not support the project. Councilman Solberg stated that it deviates from the master plan. Councilman Jezierski has a concern regarding the back side. He does not plan to support any townhomes north of this project. Mayor Mullins pointed out this was transitional zoning.

Upon Roll Call: Ayes: Council Members Jezierski, Solberg, Wagner and Kostka

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Nays: Councilman Wilson  
Absent: Councilman Varroney

MOTION CARRIED

## FIRE POLICY & COMMUNITY INFORMATION - COUNCILMAN WILSON

Councilman Wagner reminded everyone there is a meeting on Saturday, November 14th at 9:00 A.M. It will be televised.

## INFRASTRUCTURE & ENVIRONMENT - COUNCILMAN JEZIERSKI

### 1. REVIEW OF ELECTRICAL SERVICE AND RELIABILITY - COMMONWEALTH EDISON - ROSELLE AND ILLINOIS AVENUE AREA - DISTRICT #1

This has been continued to later in the meeting.

## POLICE POLICY & CODE SERVICES - COUNCILMAN KOSTKA

### ORDINANCE #2-177-98 AMENDING THE TRAFFIC CODE BY REMOVING DANIELS ROAD TO STOP FOR BROCKWAY STREET AND ESTABLISHING A NEW FOUR-WAY STOP INTERSECTION AT DANIELS ROAD AND BROCKWAY STREET - DISTRICT #6

Councilman Jezierski, seconded by Councilman Kostka, moved to pass an Ordinance amending the Traffic Code by removing Daniels Road to stop for Brockway Street and by establishing a new 4-way stop intersection at Daniels Road and Brockway Street, with waiver of first reading.

Upon Roll Call: Ayes: Council Members Jezierski, Solberg, Wagner and Kostka  
Nays: Councilman Wilson  
Absent: Councilman Varroney

MOTION CARRIED

### ORDINANCE #0-178-98 AMENDING THE CODE OF ORDINANCES: NOISE REGULATIONS IN LOADING ZONES

Councilman Jezierski, seconded by Councilman Solberg, moved to pass an Ordinance amending the Code of Ordinances, Noise Regulations in Loading Zones, with waiver of first reading.

Upon Roll Call: Ayes: Council Members Jezierski, Solberg, Wagner and Kostka  
Nays: Councilman Wilson  
Absent: Councilman Varroney

MOTION CARRIED

## INFRASTRUCTURE & ENVIRONMENT - COUNCILMAN JEZIERSKI - CONTINUED

### 1. REVIEW OF ELECTRICAL SERVICE AND RELIABILITY - COMMONWEALTH EDISON - ROSELLE AND ILLINOIS AVENUE AREA - DISTRICT #1

Ron Crawford from Commonwealth Edison was present to address the Council. He explained that after twenty-five or thirty years, underground cables need replacement. Com Ed is currently under contract to replace this primary cable. By the end of November replacement should be complete. Com Ed has inspected every transformer that was accessible in the area and one elbow needs replacement. Mr. Crawford's call center statistics for October show that 80% of the calls were being answered in 30 seconds. The following citizens spoke to the Council regarding their lack of confidence in Com Ed: Michael Collins, 825 Three Willow Court, Charles Kucera, 1325 W. Illinois, Bernie Schaeffer, 1309 W. Illinois. They asked about damages that were incurred and were told to call the Claims Department. Councilman Jezierski asked Mr. Crawford to return periodically for updates.

## REPORTS OF VILLAGE OFFICIALS

### REPORT OF THE MAYOR - RITA L. MULLINS

### PROCLAMATION - NATIONAL BIBLE WEEK - NOVEMBER 22-29, 1998

Mayor Mullins proclaimed the week of November 22-29, 1998 as National Bible Week in the

