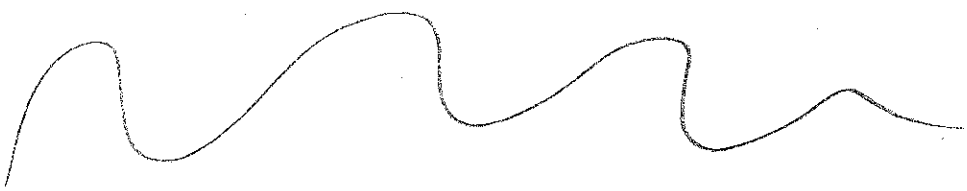
Declaration

of

West End Commons, a Condominium



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Article 1 - Submission: Defined Terms

Section 1.1. Submission of Property. West End Living, LLC, a Maine Limited Liability Company with a principal place of business in Lewiston, County of Androscoggin, State of Maine ("Declarant"), owner in fee simple of the Land described in Schedule "A" annexed hereto, located within the City of Portland, Cumberland County, Maine ("Land"), hereby submits the Land, together with improvements, easements, rights and appurtenances hereinafter provided ("Property") to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, as amended, known as the Maine Condominium Act ("Condominium Act"), and hereby creates with respect to the Property a condominium to be known as **West End Commons**, A Condominium (hereinafter the "Condominium"). The Property is shown on the Condominium Plats and the Condominium Plans recorded in the Cumberland County Registry of Deeds prepared for West End Living, LLC by William E. Hamilton, and amendments and supplements as may from time to time be recorded in said Registry, collectively referred to as the "Plats and Plans".

Section 1.2. Defined Terms. As provided in Section 1601-103 of the Condominium Act, terms not otherwise defined herein, as the same may be amended from time to time, or in said Plats and Plans, shall have the meaning specified in Section 1601-103 of the Condominium Act. The following terms shall have the meanings ascribed to them:

(a) **Association. West End Commons Homeowners' Association, Inc.**, a non-profit and non-stock corporation organized and existing under Title 13-B of the Maine Revised Statutes Annotated, as amended. The Association is the governing body for all the Unit Owners with respect to the administration, maintenance, repair, replacement, cleaning and management of the Common Elements. The membership of the Association at all times shall consist exclusively of all Unit Owners. Each Unit Owner shall automatically become and be a member of the Association as long as he or she is a Unit Owner and upon the termination of the interest of a Unit Owner in the Condominium, his or her membership and any interest in the common funds of the Association shall thereupon automatically terminate and transfer and inure to the next Unit Owner or Unit Owners succeeding

him or her in interest. The Association shall have all the powers granted pursuant to Section 1603-102 of the Condominium Act including the powers to assign its right to future income. The Association is the Unit Owners acting as a group in accordance with the Condominium instruments and the Condominium Act.

(b) **Board of Directors.** The Board of Directors/Executive Board of the Association.

(c) **Bylaws.** The Bylaws of the Association.

(d) **Condominium Instruments.** This Declaration and all exhibits attached hereto and instruments incorporated by reference herein, including the Plats and Plans and the Bylaws, and any amendments, restatements, or supplements hereto.

(e) **Declarant Control Period.** The entire time period which extends from the date of recording of the Declaration until, unless previously terminated by the Declarant, the earlier of (i) sixty (60) days after the date after the conveyance of Seventy-Five Percent (75%) of the Units to an Owner or Owners other than the Declarant, or (ii) Five (5) years following the conveyance of the first unit to an owner other than the Declarant, all as provided in Section 6.2 herein.

Section 1.3. Name and Address of Condominium. The name of the Condominium is West End Commons, a Condominium ("Condominium"). The mailing address of the Condominium is 197 Pine Street, Portland, Maine 04102.

Section 1.4. Notice to Unit Owners. Notice of matters affecting the Condominium shall be given to Unit Owners by the Association by delivery in hand or by sending prepaid by United States Mail to the mailing address of each unit or to any other mailing address designated in writing by the Unit Owner provided to the Association.

Section 1. 5. Interpretation. In the event of any conflict or discrepancy between this Declaration and said Plats and Plans, this Declaration shall govern.

Article 2 - Buildings on the Land; Unit Boundaries and Uses; Allocated Interests; Maintenance Responsibilities

Section 2.1. Location and Dimension of Buildings and Units. The location and dimensions of the buildings and units on the Land are depicted on the Plats and Plans recorded or to be recorded as hereinbefore provided and which are hereby specifically incorporated herein by reference.

Section 2.2. Units, Buildings. The Condominium as contemplated by the filing of this Declaration means the Land as described in Schedule "A" and the Buildings thereon as shown on the Plats and Plans. The Condominium shall consist of Thirty-One (31) units, being designated as the Basement Unit (6), Units 11, 12, 14, 15, 16, and 17, Units 21-26, Units 31-36, Units 41-46, and Units 51-56. Also included in this Condominium as hereby submitted and declared are all improvements now existing or to be placed within the boundaries of the Land as described in Schedule "A" and all easements and leases benefitting the Land as described in Schedule "A". The location of the Units within the Condominium and their horizontal and vertical boundaries, floor plans, elevations and dimensions are shown on the Plats and Plans.

Section 2.3. Fraction of Common Element Interest. The percentage interest in the Common Elements and the vote appurtenant to each one bedroom Unit shall be determined on the basis of the aggregate square footage of all one bedroom Units at issue in relation to the total square footage of all of the Units authorized by this Declaration, divided by the number of one bedroom Units which determination is set forth and attached as Schedule "B" hereto. The percentage interest in the Common Elements and the vote appurtenant to each two bedroom Unit shall be determined on the basis of the aggregate square footage of all two bedroom Units at issue in relation to the total square footage of all Units authorized by this Declaration, divided by the number of two bedroom Units, which determination is set forth and attached as Scheduled "B" hereto. The percentage of the undivided interest of each Unit Owner in the Common Elements as shown on said Schedule "B" shall have a permanent character as expressed herein and shall not be altered without the consent of all Unit Owners expressed in an amendment to this Declaration duly recorded, except that any expansion of a Unit shall automatically result in the recalculation of the interest of Unit Owners. The percentage of the undivided interest in the Common Elements shall not be separated from the unit to which it appertains and shall be deemed to be conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

Section 2.4. Use and Conditions. Each Unit is intended to serve as a self-contained living unit solely for residential purposes, intended for occupancy by the Owner or Owners or those lessees expressly permitted by this Declaration and the Association. Accordingly:

(a) No Unit shall be leased for a term of less than three (3) months and all Leases shall be subject to such further terms and conditions regarding Leases as contained in this Declaration, the Bylaws or any Rules or Regulations adopted by the Association.

(b) No commercial use of any type, including use by professionals or other home occupation shall be permitted.

(c) Except for those uses reserved for and to the Declarant, if any, the Common Elements and Limited Common Elements shall be used only for the furnishing of the services, facilities and activities for which they are reasonably suited, and which are incident to the use and occupancy of the units.

(d) Nothing shall be done or kept in any Unit, the Common Elements or the Limited Common Elements which will either cause cancellation of or increase the rate of insurance on any other Unit, the Common Elements or the Limited Common Elements or the contents thereof, or which will obstruct or interfere with the rights of other occupants or annoy them by unreasonable lights, noises or otherwise, or which would be in violation of any law.

(e) No waste shall be committed in any Unit, the Common Elements or the Limited Common Elements.

(f) Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside of walls of a Unit, and no signs, awnings, canopies, radio or television antennas or similar devices may be affixed to or placed on the exterior walls, roofs, balconies or decks or any part thereof without the prior written consent of the Board of Directors or as may otherwise be expressly permitted by the Bylaws.

(g) No pets other than dogs, cats and other household pets kept for domestic purposes only, may be kept in the Units, subject to an overall weight

limitation and subject to further limitations, conditions or specifications as determined by the Board of Directors, which shall be empowered, in its discretion, and as part of its rule making authority as provided in Section 2.8 hereinafter, to place reasonable conditions upon such permission, or to withhold or withdraw such permission. Pets shall not be unleashed or at large within or upon the Common Elements or Limited Common Elements.

(h) Unit Owners may not erect signs, television antennas, clotheslines or other structures, plant or remove trees or shrubs or do any other thing which affects the external appearance of the building or grounds, including the Limited Common Elements, except as provided in this Declaration or in accordance with policies established by or with the specific consent of the Board of Directors.

(i) No temporary structures of any type or nature shall be permitted upon any portion of the Condominium, except as approved by the Board of Directors of the Association or as existed on the date of this Declaration.

(j) All Units and Limited Common Areas shall be maintained in a neat, attractive manner and kept in good repair.

(k) All construction activities and the use of any Unit shall be in accordance with all local and state laws, codes, ordinances and regulations.

(l) No parking of (a) any motor vehicles which require a registration in order to be utilized on any public road or (b) any recreational vehicle or equipment of any kind shall be kept within or upon the Condominium, except where a Limited Common Element is designated for that purpose and then only to the extent of and for the benefit of the Unit Owners benefitting from the Limited Common Element and their immediate family, guests, and other authorized occupants and visitors.

(m) Unit owners may not install any air conditioning and/or heating unit which unit or the components thereof extend beyond the vertical boundary of the Unit facing in the direction of Pine Street.

(n) Unit owners may not, in connection with the installation of any household appliance, disturb the Common Elements of the Association without the prior written consent of the Board of Directors of the Association.

Notwithstanding anything elsewhere set forth herein, the Declarant reserves the right to use any Units owned by the Declarant as models, management offices, sales offices or customer service offices, and the Declarant reserves the right to relocate the same from time to time within the Property. Upon relocation, the furnishing thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. This easement shall continue until the Declarant has conveyed all Units in the Condominium to Unit Owners other than the Declarant. The maximum number of Units dedicated to the purposes of this paragraph shall be three (3). The size of the Units dedicated to the purposes of this paragraph shall depend on the size of the Unit selected by the Declarant for such purposes.

Section 2.5. Unit Boundaries. The boundaries of each Unit are as follows:

(a) **Upper and Lower (Horizontal) Boundaries**: The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical (perimetric) boundaries:

(1) Upper Boundary: The Upper Boundary of the Unit shall be the horizontal plane of the ceiling in the uppermost level of the Unit.

(2) Lower Boundary: The Lower Boundary of each Unit in the Condominium shall be the horizontal plane at the top surface of the undecorated floor.

(b) **Vertical (Perimetric) Boundaries**: The vertical boundaries of the Unit shall be the walls bounding the Unit extended to the center line of the common wall and with the upper and lower boundaries. The boundary line shall also be the interior surface of windows, door glass and storm windows. Exterior doors, windows, sills and thresholds and other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are limited common elements allocated exclusively to that Unit.

Notwithstanding anything elsewhere set forth herein, any and all electrical and plumbing components and fixtures and the phone line and components thereof for the doorbell system on the inside walls (i.e. unfinished side of sheetrock) of the Condominium shall be deemed to be Common

Elements as provided in Article 3, Section 3.1 below; **Provided, However**, that any electrical components running from the junction box of an individual unit to the outlets and electrical components of an individual unit shall be deemed to be part of the unit benefitting from the same and not a common expense.

Section 2.6. Architectural Control and Safety of Property. In no event shall any Unit Owner permit or do any work which may jeopardize the soundness or safety of his or her Unit or any component portion of the Condominium without the unanimous consent of the other Unit Owners.

Section 2.7. Maintenance Responsibilities. Each Unit Owner shall furnish and be responsible for, at his or her own expense, all maintenance, repairs and replacements within his or her own Unit; provided, however, such maintenance, repair and replacements as may be required for the functioning of or for the bringing of utilities, such as water, gas, electricity and sewer to the Unit shall be furnished by the Association as part of the common expenses, except as otherwise provided. Maintenance, repairs and replacements of refrigerators, stoves and other kitchen appliances, and indoor lighting fixtures, and plumbing fixtures, and other electrical or mechanical appliances of any Unit shall be at the expense of such Unit Owner. Maintenance, repairs and replacements of the Common Elements and Limited Common Elements, including the exterior surfaces of all Units shall be furnished by the Association as part of the common expenses; **Provided, However**, that if any Unit Owner makes any improvements to the Limited Common Element to which his or her Unit relates by making the Limited Common Element a part of his or her unit as more fully described herein, any and all maintenance, repairs, and replacement relating to said improvements, and any maintenance, repairs, and replacements of the Limited Common Elements resulting from such improvements, shall be paid by the Unit Owner benefitting therefrom. Each Unit Owner shall pay for his or her own telephone, electricity, cable and water service, Internet access and other utilities which are separately metered or billed to each such user by the respective utility company or service provider. Utilities or services which are not separately metered or billed shall be treated as part of the common expenses. Each Unit Owner shall be responsible for the cleaning, maintenance, repair and replacement (interior and exterior) of all window glass and door glass of his or her unit, and any air conditioning vents or other intake or exhaust vents; and if a Unit Owner fails to clean, maintain, repair and/or replace such items, the Association may see to their cleaning, maintenance, repair

and/or replacement and add any costs incurred therefore to the assessment billed to the applicable Unit Owner. Further, in the event any Unit Owner fails to maintain, repair or replace as needed any other element, including without limitation, the refrigerator, stoves, and other kitchen appliances, indoor lighting fixtures, plumbing fixtures and other electrical or mechanical appliances of said Unit Owner's Unit, for which the Unit Owner is responsible, and the Association deems in its sole discretion said failure to pose a risk of injury to persons or property, the Association may maintain, repair or replace such items as it deems in its sole discretion to be necessary for this purpose, and any costs incurred therefor shall be added to the assessment against the applicable Unit Owner and the Unit. If due to the negligent act or omission of a Unit Owner or invitee or other authorized occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements, the Limited Common Elements or to a Unit or Units owned by others, and maintenance, repairs and replacements 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 Association. If such maintenance, repairs and replacement would otherwise be the expense of another Unit Owner, then the Unit Owner causing or allowing damage to be caused shall pay for such damage. The damage shall be added to the assessment against the applicable Unit Owner and corresponding Unit.

Section 2.8. Rules and Regulations. Each Unit Owner shall comply strictly with the Bylaws and with the administrative rules and regulations adopted pursuant thereto and with the covenants, conditions and restrictions set forth in this Declaration or in the deed to his or her Unit. Failure to so comply shall be grounds for action to recover damages or for injunctive relief, or both, maintainable by the Board of Directors on behalf of the Association or by any aggrieved Unit Owner.

Section 2.9. Relocation of Unit Boundaries and Subdivision and Combining of Units. Relocation of boundaries between Units is expressly prohibited. Subdivision of Units is expressly prohibited. Combining of Units is expressly prohibited. Notwithstanding anything elsewhere set forth herein, Unit #51, 52, 55, and 56 may expand their respective Units to incorporate the areas marked "LCE 51(Need Not Be Built)," LCE 52 (Need Not Be Built)," "LCE 55 (Need Not Be

Built)," and "LCE 56 (Need Not Be Built)" respectively. Any such expansion of said Units shall be made at the Unit Owners sole cost and expense and shall result in a reallocation of the percentage interest of each Unit Owner. In addition, any such alteration must not impair the structural or mechanical systems, or lessen the support of any portion of the Condominium. Any such expansion of such Units shall be done in accordance with all local and State laws, codes, ordinances, and regulations, be specifically subject to the provisions of the Declaration and the Bylaws, and no such expansion shall cause cancellation of or increase the rate of insurance on any other Unit, the Common Elements, the Limited Common Elements or the contents thereof, or otherwise obstruct or interfere with the rights of other occupants without permission of the Association. Upon any such expansion of the Unit, that portion of the Limited Common Element which is built out and becomes part of the Unit shall no longer be deemed to be a Limited Common Element but shall be deemed to be a part of the Unit at issue.

Article 3 - Common Elements and Expenses; Use of Common Elements by Declarant

Section 3.1. Common and Limited Common Elements.

(a) **Common Elements**: The location of the Common Elements to which each Unit has direct access are shown on said Plats and Plans. The Common Elements shall consist of all of the property except the individual Units and shall include the land, buildings, foundations, roofs (except where designated as Limited Commons Elements), outside walls, pipes, ducts, electrical wiring and conduits, public and private utility systems, and utility lines, floors and ceilings (other than the portion of the floors and ceilings which constitute a part of the Units in accordance with Section 1602-102(1) of the Maine Condominium Act and other than certain electrical and electrical components running from a unit's junction box as set forth in Article 2, Section 2.5 above), perimeter walls of the Units (other than the portion of the walls which constitute a part of the Units in accordance with Section 1602-102(1) of the Maine Condominium Act), structural parts of the building, including structural columns, girders, beams and supports; easements as set forth in Exhibit "A", if any, for access and utilities; and in addition, all other parts of the property necessary and convenient to its existence, maintenance and safety, normally in common use as defined in the Maine Condominium Act, except such parts of the property as may be specifically excepted or reserved

herein or in any Exhibit attached hereto or referred to herein. Each Unit Owner shall have the right to use the Common Elements in common with all other Unit Owners, as may be required for the purposes of ingress and egress to and use, occupancy and enjoyment of the respective Unit owned by such Unit Owner such rights shall extend to the Unit Owners and members of the immediate family, guests and other authorized occupants and visitors of the Unit Owner. The use of the Common Elements and rights of the Unit Owners with respect thereto shall be subject to and governed by the provisions of the Maine Condominium Act, this Declaration, and the Bylaws and Rules and Regulations of the Association as hereinafter described. Such rights shall extend to the Unit Owners and members of the immediate family, guests and other authorized occupants and visitors of the Unit Owner.

(b) **Limited Common Elements**: Pursuant to Section 1602-102(4) of the Condominium Act, a shutter, awning, window box, doorstep, stoop, balcony, porch or patio, if any, shown adjacent to a Unit is a Limited Common Element appurtenant to that Unit unless otherwise indicated on the Plats and Plans. Other Limited Common Elements, and the Units to which they are allocated are shown on the Plats and Plans. A Limited Common Element (usually identified on the Plats and Plans as "LCE") is allocated to the Units having the same identifying number as the number following "LCE." For example, a designation of "LCE 12" identifies a Limited Common Element allocated to Unit 12.

With respect to the Limited Common Elements on the roof of the Condominium, the Unit Owners to which those Limited Common Elements are allocated shall have the right to install skylights through the roof and benefitting the Unit at issue, provided that all other provisions of the Declaration and the Bylaws are met. In addition, Unit #52, 54, and 56 shall have the right to construct a patio/deck and other similar improvements to their respective Limited Common Elements on the roof, provided (i) that they otherwise comply with the provisions of the Declaration and the Bylaws, and (ii) that no such improvements shall alter the structural integrity or mechanical systems of the Condominium or any portion of the Condominium, and (iii) that all of the improvements are made in accordance with all local and state laws, codes, ordinances, and regulations, and (iv) that no such improvements or alterations will cause cancellation of or increase the rate of insurance on any other Unit, the Common Elements, or Limited Common Elements or the contents thereof, or

otherwise obstruct or interfere with the rights of other occupants or annoy them by unreasonable lights, noises, or otherwise without the prior consent of the Association.

(c) **Alteration of Common Elements by Declarant**. The Declarant reserves the right to modify, alter, remove or improve portions of the Common Elements or the Limited Common Elements, including, without limitation, any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the Declarant Control Period.

Section 3.2. Assessments for Common Expenses.

(a) An assessment necessary to fund the obligations of the Association, including, but not limited to, maintenance, repair and operation of the Common Elements and establishment of a reasonable reserve for replacement of the Common Elements shall be determined annually and collected from each Unit Owner. The Declarant, acting for and on behalf of the Association, shall make the initial assessment. Assessments shall be made by the Association based on a budget adopted by the Association as set forth in the Bylaws of the Association. Common profits shall belong to the Association. The Board of Directors shall annually adopt a proposed budget and shall provide a summary of the budget to all Unit Owners as provided in the Bylaws. With respect to any Units owned by the Declarant, the Declarant may, but is under no obligation to, pay a monthly assessment determined in the same manner as the monthly assessment is determined for all other Unit Owners while any Unit or Units remain under the control of the Declarant.

(b) Except for assessments under subsection (c) below, common expenses shall be assessed against all the Units in accordance with the allocations set forth herein and Schedule "B" and pursuant to Section 1602-107 of the Condominium Act. No Unit Owner may exempt himself or herself from liability for its contribution toward common expenses by giving up the use or enjoyment of any of the Common Elements or by abandoning his or her Unit. Any past due common expense assessment or installment thereof shall bear interest at the rate established by the Association not exceeding Eighteen Percent (18%) per year.

(c) The following shall also apply to assessments:

(1) Any common expense associated with the maintenance, repair or replacement of a Limited Common Element shall be furnished by the Association as part of the Common

expenses; **Provided, However**, that if any Unit Owner makes any improvements to the Limited Common Element to which his or her Unit relates by making the Limited Common Element a part of his or her unit as more fully described above, any and all maintenance, repairs, and replacement relating to said improvements, and any maintenance, repairs, and replacements of the Limited Common Elements resulting from such improvements, shall be paid by the Unit Owner benefitting therefrom.

(2) Any payments, fees or charges for the use, rental or operation of any Common Element shall be applied first to reduce the common expense relating to such Common Element. Any excess thereof shall be applied to common expenses generally;

(3) Assessments to pay a judgment against the Association, Section 1603-117, subsection (a) of the Condominium Act, shall be made only against the Units in the condominium at the time the judgment was entered, in proportion to their common expense liability;

(4) If any common expense is caused by the misconduct of any Unit Owner, or any guest, invitee, lessee or authorized occupant/visitor of Unit Owner, the Association may assess that expense exclusively against the corresponding Unit of that Unit Owner; and

(5) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(d) The Association shall have a lien on any Unit for any assessment or other charges against that Unit or fines imposed against its Unit Owner from the time of assessment, and from the time the charge or fine becomes due, and shall have all rights as provided in Section 1603-116 of the Condominium Act.

Article 4 - Easements

In addition to the easements created by Sections 1602-114 and 1602-116 of the Condominium Act, and the rights reserved in Article 6 of this Declaration, the following easements are hereby granted:

Section 4.1. Easements for Access and Support.

(a) The Declarant reserves in favor of the Association and/or any other person authorized by the Board of Directors the right of access to any Unit as provided in section 1603-107(a) of the Condominium Act and any applicable provision of the Bylaws. In case of emergency, such entry shall be immediate whether or not the Unit Owner is present at the time.

(b) Each Unit, Common Element and Limited Common Element shall have an easement for lateral and subjacent support from every other Unit, Common Element and Limited Common Element.

(c) The Association shall have an easement for access through any and all Limited Common Elements for the purpose of accessing the Common Elements and for the purpose of fulfilling its duties under the Condominium Instruments.

(d) Each Unit, Common Element and Limited Common Element shall be subject to an easement in favor of the Association for the repair, replacement, installation and maintenance of any pipes, electrical wiring and other conduits for utilities which may be located therein serving any one or more of the other Units or any one or more of the Common Elements and Limited Common Elements.

Section 4.2. Right to Grant Easements and to Relocate Existing Easements within the Common Areas of the Property. The Declarant shall have the right, prior to the termination of the Declarant Control Period, to grant and reserve easements and rights-of-way through, under, over and across the Property, (a) for construction purposes, and (b) for the installation, maintenance and inspection of the lines and appurtenances for public and private water, sewer, drainage, gas, electricity, telephone, television, and other like utilities and services. Declarant also reserves the right to relocate existing easements and rights of way encumbering the Property within the Common Areas of the Property. After the termination of the Declarant Control Period, the Association shall have the right to grant easements for the purposes stated in (b) above and to relocate existing easements and rights of way encumbering the Property within the Common Areas of the Property, but such right shall not be exercised so as to unreasonably disrupt any Unit, and the Association shall be responsible for any damage that occurs to the Common Elements, Limited Common Elements or to any Unit as the result of the exercise of this right.

Section 4.3. Location of Existing Easements. Easements and obligations benefitting the Condominium and easements and obligations burdening the Condominium are as shown on the Plats and Plans and described in Schedule "A" annexed hereto.

Article 5 - Declarant's Right to Convey Units

The Declarant shall own in fee simple each Condominium Unit to which legal title is not conveyed or otherwise transferred to another person or entity. The Declarant retains the right to convey any of the Units owned by the Declarant.

Article 6 - Special Declarant Rights; Declarant Control Period; Transfer

Section 6.1. Special Declarant Rights. Special Declarant Rights are those rights reserved for the benefit of the Declarant as provided for in the Condominium Act and the Condominium Instruments, and shall include without limitation the right to approve or disapprove any acts of the Board of Directors of the Association during the Declarant Control Period.

Section 6.2. Board of Directors; Declarant Control Period.

(a) Subject to the provisions of the Condominium Act, this Declaration or the Bylaws, the Board of Directors shall have the power to act on behalf of the Association. The initial Board of Directors shall consist of Three (3) members. The members of the initial Board of Directors shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining formal or informal resignations. During the Declarant Control Period the Declarant shall have the right to allow or disallow any acts of the Association or the Board of Directors, including but not limited to, any proposed amendment to this Declaration, the Bylaws, or the Rules and Regulations adopted by the Association.

(b) The Declarant Control Period shall extend until terminated by the Declarant but in no event shall it extend later than the earlier of (i) sixty days (60) after the date of the conveyance of Seventy-Five Percent (75%) of the Units in all Buildings shown on said Plats and Plans to an owner or owners other than the Declarant or (ii) Five (5) years following conveyance of the first Unit to an owner other than the Declarant. Upon the termination of the Declarant Control Period, the Unit Owners shall elect a Board of Directors of no fewer than Three (3) members and no more than Nine (9) members. The Directors shall serve until the first regular election of the Board of Directors held at the first regular meeting of the Association held in accordance with the Bylaws, whereupon the

respective terms of the Directors who shall be chosen to serve on the Board shall be staggered terms (no more than two (2) Directors' terms expiring in any given year). Thereafter, the term of directors shall be for three (3) years.

Article 7 - No Obligations

Nothing contained in the Condominium instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, construct or provide any improvements except to the extent required by the Condominium Act.

Article 8 - Amendment to Condominium Instruments: Required Consent

Section 8.1. Amending Process. The provisions of this Declaration may be amended from time to time upon approval of such amendment or amendments by the Association pursuant to a resolution, or written consent, approving such amendment or amendments given by Unit Owners to which not less than Seventy-Five Percent (75%) in the aggregate of the votes in the Association are allocated and the approval of eligible mortgage holders (as defined in accordance with Section 1602-119(b)(7) of the Maine Condominium Act) representing not less than Fifty-One Percent (51%) of the votes of the Association; provided, however, that if the Condominium Act or this Declaration shall require the consent or agreement of a greater percentage of the Unit Owners or of lien holders for any action specified in the Condominium Act or in this Declaration, then any amendment to or amendments with respect to such actions shall require such greater percentages as may be provided in the Condominium Act or in this Declaration. Units not yet conveyed by the Declarant to any third party during the Declarant Control Period shall be counted toward the Seventy-Five Percent (75%) aggregate vote requirement set forth in this Section. The Limited Common Elements appurtenant to each Unit shall be as set forth in this Declaration, on said Plats and Plans, or on any modified Plats and Plans which may be recorded in the Cumberland County Registry of Deeds, and the percentage of individual interest in the Common Elements appertaining to each Unit and its corresponding Unit Owner are set forth in said Schedule "B". The Declarant reserves to itself the right to amend or restate this Declaration prior to the first conveyance of any Unit to someone other than the Declarant by recording said amended or restated Declaration. The provisions of and the rights reserved under

this subparagraph apply notwithstanding any provisions of this Declaration or the Bylaws to the contrary.

Section 8.2. Certificate of Amendment. A copy of each amendment by the Association shall be certified by at least two officers of the Association as having been duly adopted, and shall be effective when recorded in the Cumberland County Registry of Deeds. Copies of the Certificate shall be mailed to each Unit Owner and its mortgagee, if known to the Board of Directors, but failure to send such notices shall not affect the validity of the amendment.

Section 8.3. Further Provisions. No amendment shall be made to any Condominium Instrument during the Declarant Control Period without the prior written consent of the Declarant and the approval of eligible mortgage holders (as defined in accordance with Section 1602-119(b)(7) of the Maine Condominium Act) representing not less than Fifty-One Percent (51%) of the votes of the Association. No amendment may modify this Article or the rights of any person hereunder. Except as specifically provided in the Condominium Instruments, no provision of the Condominium Instruments shall be construed to grant to any Unit Owner, or to any other person, any priority over any rights of eligible mortgage holders or any other mortgagees.

Article 9 - Rights of Secured Lenders

Secured Lenders and eligible mortgage holders (as that term is defined in 33 M.R.S.A. Section 1602-119[b]) shall have all of the rights of secured lenders as set forth in 33 M.R.S.A. Section 1602-119, as amended.

Article 10 - Miscellaneous

If any provision of this Declaration, the Bylaws or the Rules and Regulations adopted by the Association, or any section, sentence, clause, phrase or word therein, or the application thereof in any circumstances be judicially held in conflict with any applicable laws, including, but not limited to, the Condominium Act, then the laws shall be deemed controlling; but the validity of the remainder of this Declaration, the Bylaws and Rules and Regulations, and the application of such provision, section, clause, phrase or word in other circumstances shall not be affected thereby.

The provisions of this Declaration and the Bylaws and the rights and obligations established hereby shall be deemed to be covenants, running with the land, so long as the property remains subject to the provisions of the Maine Condominium Act and shall inure to the benefit of and be

binding upon each and all of the Unit Owners and their respective heirs, representatives, successors, assigns, purchasers, lessees, grantees and mortgagees. By the recording of, or by the acceptance of, a Deed conveying a Unit or any interest therein, the Grantee, his or her heirs, representatives, successors or assigns shall be deemed to accept and agree to be bound by and subject to all of the provisions of the Maine Condominium Act, this Declaration, and the Bylaws. Acceptance of such Deed shall also constitute waiver of minor discrepancies in the Plats and Plans.

Any dispute or disagreement between Unit Owners with respect to interpretation or application of this Declaration, the Bylaws or the Rules and Regulations adopted by the Association shall be determined by the Board of Directors, which determination shall be final and binding on all parties.

If any term, covenant, provision, phrase or other element of this Declaration, the Bylaws, any Deed to a Unit, or the Rules and Regulations adopted by the Association is held to be invalid or unenforceable for any reason whatsoever, such holdings shall not affect, alter, modify or impair in any manner, any other term, covenant or provision, phrase or other element of such documents.

The Board of Directors may prescribe by resolution a form of lease or specific provisions to be included in any lease of a Unit, and thereafter no Unit Owner shall execute a lease of his or her own Unit not in compliance with such resolution, with any such lease not in compliance being deemed null, void and of no effect.

Any Unit Owner in default in the payment of any amount due the Association or in violation of any provision of the Condominium Act, this Declaration, the Bylaws, or the Rules and Regulations adopted by the Association, which violation continues for Thirty (30) consecutive calendar days after notice thereof by the Association to the defaulting Unit Owner, may be prohibited by the Board of Directors from the use and enjoyment of any and all of the Common Elements not essential to the access of the Unit, in addition to all other remedies available to the Board of Directors.

In any dispute between one or more Unit Owners and the Declarant regarding the Common Elements or Limited Common Elements, the Board of Directors shall act for the Unit Owners, and any agreement with respect thereto by the Board shall be conclusive and binding upon the Unit Owners.

In Witness Whereof, the Declarant has caused this Declaration to be executed by **Kevin B. Dean**, its **Manager** hereunto duly authorized this 26th day of January, 2004.

Witness:

Amy L. Johnson

West End Living, LLC

By: Kevin B. Dean
Kevin B. Dean
Its Manager

STATE OF MAINE
ANDROSCOGGIN, SS.

January 26, 2004

Personally appeared the above-named **Kevin B. Dean** in his capacity as Manager of **West End Living, LLC** and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Limited Liability Company.

Before me,

Amy L. Johnson
Notary Public/Attorney-At-Law
Print Name: Amy L. Johnson
My Commission Expires: 9/19/2009

SEAL

Schedule "A"

Property Description

A certain lot or parcel of land, together with the building and improvements thereon, situated in Portland, Cumberland County, Maine, bounded and described as follows:

Beginning at a drill hole set in the westerly end of a granite wall on the northerly side of Pine Street at the westerly corner of land described in a deed from Elizabeth F. Feinberg to David Alan Sheriff dated December 30, 1996 and recorded in the Cumberland County Registry of Deeds in Book 12904, Page 200;

Thence North 69° 58' West by said northerly side of Pine Street, 74.55 feet to a drill hole set in the granite base of a brick pillar;

Thence North 19° 51' East, by land described in the deed from John P.M. Higgins et al to Pamela W. Gleichman dated February 21, 1984 and recorded in said Registry in Book 6405, Page 293, a distance of 100 feet to a drill hole set in a stone and masonry wall;

Thence by the third parcel of land described in the deed from Sara C. Chisholm to Maine Medical Center dated December 14, 1963 and recorded in said Registry in Book 2794, Page 281 by the following two lines; South 69° 58' East a distance of 0.78 feet to an iron rod with survey cap driven into the ground;

Thence North 19° 51' East a distance of 40.00 feet to an iron rod with survey cap driven into the ground;

Thence South 69° 58' East by the fourth parcel of land described in said deed to Maine Medical Center recorded in Book 2794, Page 281, a distance of 74.87 feet to an iron rod with survey cap driven into the ground;

Thence South 20° 18' West by said land of David Alan Sheriff, 140.00 feet to the point of beginning.

Schedule "B"

Schedule of Unit Owner Interests

Unit	Percentage Interest of Each Owner in Common Elements
Basement	2.89%
11	2.89%
12	2.89%
14	3.44%
15	3.44%
16	3.44%
17	2.89%
21	2.89%
22	3.44%
23	3.44%
24	3.44%
25	2.89%
26	3.44%
31	3.44%
32	2.89%
33	3.44%
34	3.44%
35	2.89%
36	3.44%
41	2.89%
42	3.44%
43	3.44%

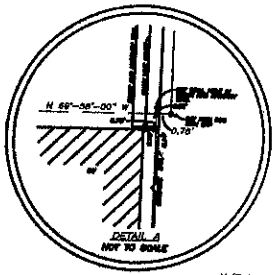
44	3.44%
45	2.89%
46	3.44%
51	2.89%
52	3.44%
53	3.44%
54	3.44%
55	2.89%
56	3.44%
	100.04%*

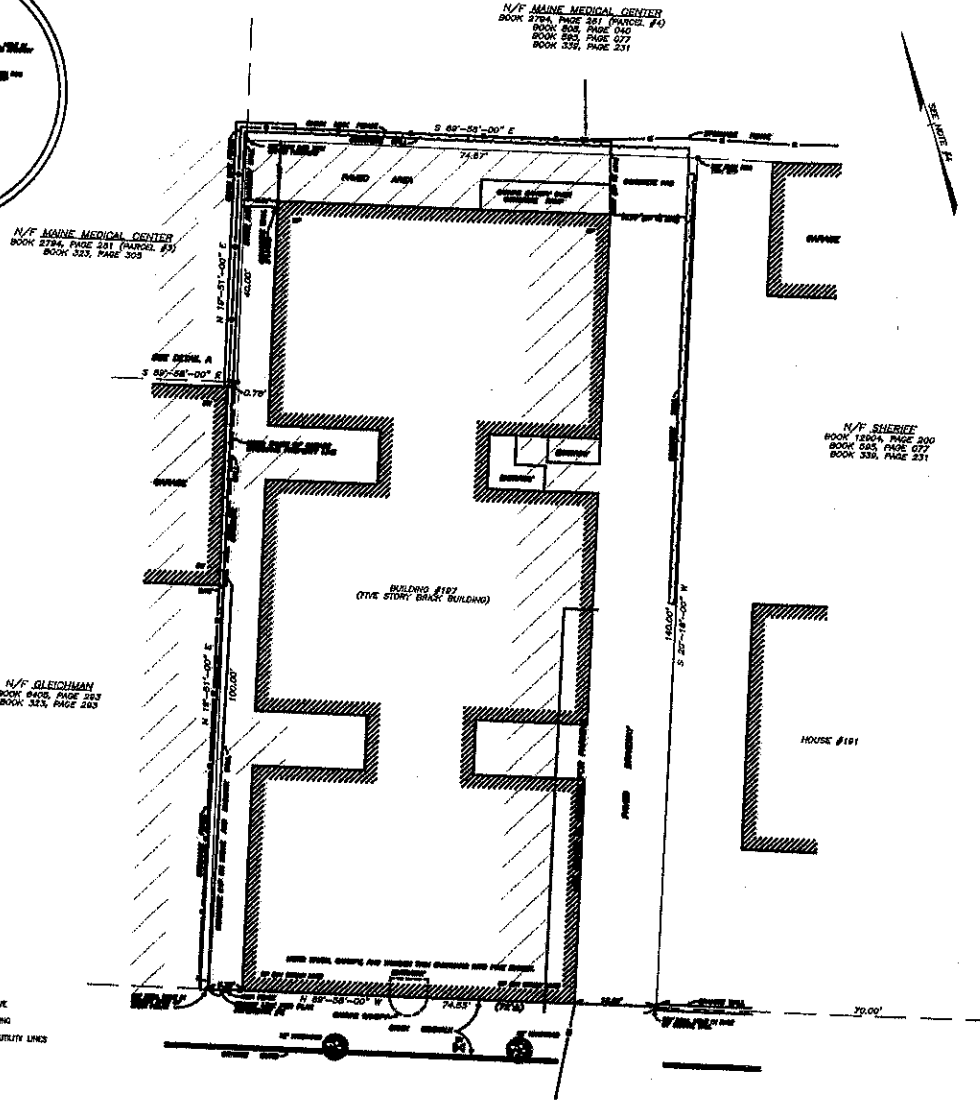
* Overage above 100% due to rounding.

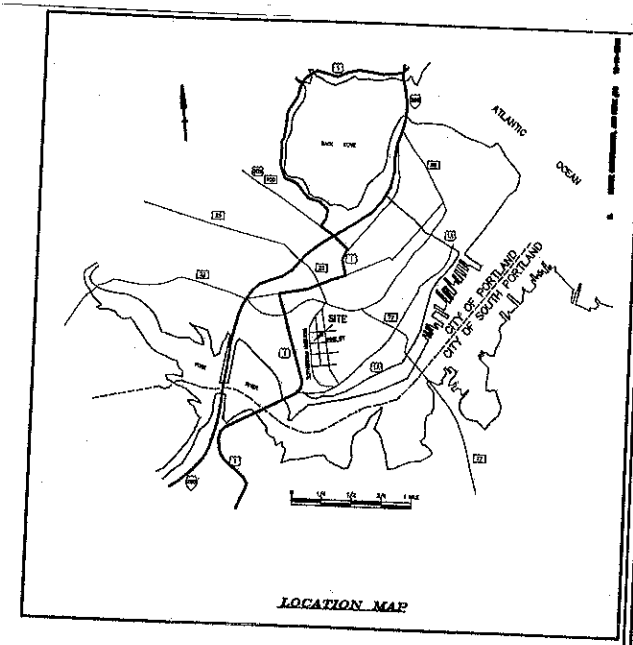
One Bedroom Units: 6, 11, 12, 17, 21, 25, 32, 35, 41, 45, 51, 55

Two Bedroom Units: 14, 15, 16, 22, 23, 24, 26, 31, 33, 34, 36, 42, 43, 44, 46, 52, 53, 54, 56

Doc#: 8851 Bk:20847 Pg: 57







LOCATION MAP

LEGEND :

WV	WATER VALVE
UP	UNDERPINNING
OU	OVERHEAD UTILITY LINES
BW	BRICKWORK

GRAPHIC SCALE

(IN FEET)
1 inch = 10 ft.

PLAN REFERENCES :

1. "PLAN OF LAND OF LOTS IN PORTLAND WEST OF THE BRACKETT ESTATE", DATED 1836, RECORDED AT CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 1, PAGE 84.
2. PLANS OF PINE STREET, CHADWICK STREET, AND WESTERN PROMENADE ON FILE AT THE OFFICE OF THE CITY ENGINEER.

LOCUS DEED REFERENCES :

WILLIAM GRIBBIN, HELEN GRIBBIN AND MARY GRIBBIN
TO
HUDDERSFIELD PROPERTIES, LLC
JANUARY 29, 1999 BOOK 14352, PAGE 327

SEE ALSO: MAGDALINE GRIBBIN
TO
WILLIAM G. GRIBBIN, HELEN GRIBBIN, AND MARY GRIBBIN
SEPTEMBER 8, 1970 BOOK 3142, PAGE 880 (1/2 INTEREST)

WILLIAM G. GRIBBIN, HELEN GRIBBIN, AND MARY GRIBBIN, PERSONAL REPRESENTATIVES OF THE ESTATE OF MAGDALINE GRIBBIN
TO
WILLIAM G. GRIBBIN, HELEN GRIBBIN, AND MARY GRIBBIN
AUGUST 9, 1994 BOOK 11074, PAGE 161(1/2 INTEREST)

SEE ALSO: BOOK 5941, PAGE 105
BOOK 583, PAGE 77
BOOK 330, PAGE 231

NOTES :

1. THIS SURVEY CONFORMS TO STATE OF MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS' STANDARDS CATEGORY B, CONDITION III.
2. AREA = 10,465 SQUARE FEET OR 0.240 ACRES.
3. SEE ACCOMPANYING SURVEYOR'S REPORT.
4. BEARINGS REFER TO THE 1998 MAGNETIC MERIDIAN.
5. REFERENCES IN PARENTHESES REFER TO DEED AND PLAN REFERENCES.
6. PER FLMA 33900C 0013 B, THE LOCUS IS NOT LOCATED IN A SPECIAL FLOOD HAZARD ZONE.
7. THE LOCUS IS LOCATED IN A CITY OF PORTLAND R-4 RESIDENTIAL ZONE. A COPY OF THE LAND USE ORDINANCE FOR THE R-4 RESIDENTIAL ZONE IS ATTACHED TO THE ACCOMPANYING REPORT.
8. REFERENCE IS MADE TO LAWYERS TITLE INSURANCE CORPORATION PRELIMINARY CERTIFICATE AND BINDER FOR TITLE INSURANCE, STEPHEN G. AND GERALDINE A. STRONG, 197 PINE STREET, DATED NOVEMBER 17, 1998.
9. PER THE CITY OF PORTLAND MUNICIPAL OFFICES, THE BUILDING SITUATED ON THE LOCUS WAS BUILT IN 1900 AND PREDATES THE ZONING ORDINANCE.
10. AN ON-SITE INSPECTION WAS MADE, AND THIS PLAN WAS REVISED OCTOBER 10, 2003 FOR WEST END LIVING, LLC. REFERENCE IS MADE TO FIRST AMERICAN TITLE INSURANCE COMPANY COMMITMENT FOR TITLE INSURANCE.

SURVEYOR'S CERTIFICATE :

TO: FIRST AMERICAN TITLE INSURANCE CORPORATION AND WEST END LIVING, LLC

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN (I) ACCORDANCE WITH "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS" JOINTLY ESTABLISHED AND ADOPTED BY ALTA/ACSM IN 1962, AND (II) PURSUANT TO THE ACCURACY STANDARDS (AS ADOPTED BY ALTA/ACSM AND IN EFFECT ON THE DATE OF THIS CERTIFICATION) OF AN "URBAN" SURVEY

PETER D. DOWERSTEY
STATE OF MAINE PROFESSIONAL LAND SURVEYOR #1301

DATE

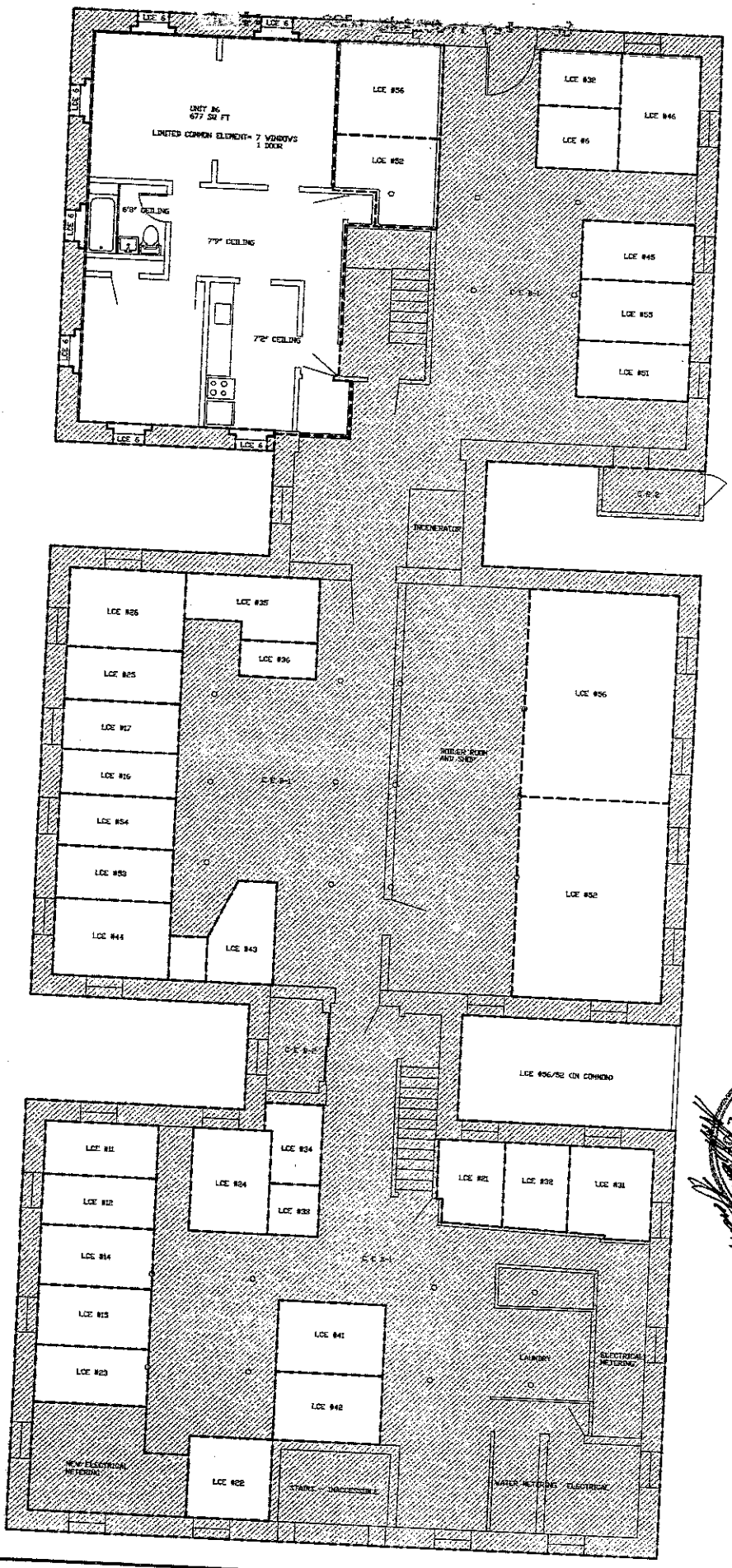
No.	Revision	Date
1.		

ALTA/ACSM LAND TITLE SURVEY (URBAN) MADE FOR:
STEPHEN G. STRONG &
GERALDINE A. STRONG
(MAILING ADDRESS: SEASIDE AVENUE, SACO ME 04072)
PARCEL LOCATED AT 197 PINE STREET
PORTLAND MAINE

Dow & Columbe, Inc.
Land Surveyors & Land Planners
113 Pacific Street, Saco, ME 04072
Telephone: 207-284-4521 • Fax: 207-284-4525

Date: JANUARY 7, 1999	
H. Scale: 1" = 10'	Drawn by: MJC
Chk'd by: PDD	Appr'd by: PDD

ZONE-MISC



REGISTERED ARCHITECT
WILLIAM E. HAMILTON
No. 1342
STATE OF MAINE

NOTE:
SQ FT= SQUARE FEET
CE= COMMON ELEMENTS
B-1= BASEMENT
B-2= ELEVATOR
1= COVERED AREA
2= ACCESS WAY
LCE= LIMITED COMMON ELEMENTS

JOY & HAMILTON ARCHITECTS, INC.
600 MAIN STREET
SANFORD, ME 04073
(207) 324-9997
DES COURT STREET
AUBURN, ME 04210
(207) 782-1812

NEST END COMMONS, A CONDOMINIUM
197 PINE STREET
PORTLAND MAINE

TITLE: BASEMENT PLAN
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Scale: 1/4"=1'-0"
Drawn: MEH, GLR
Checked:
Revisions:

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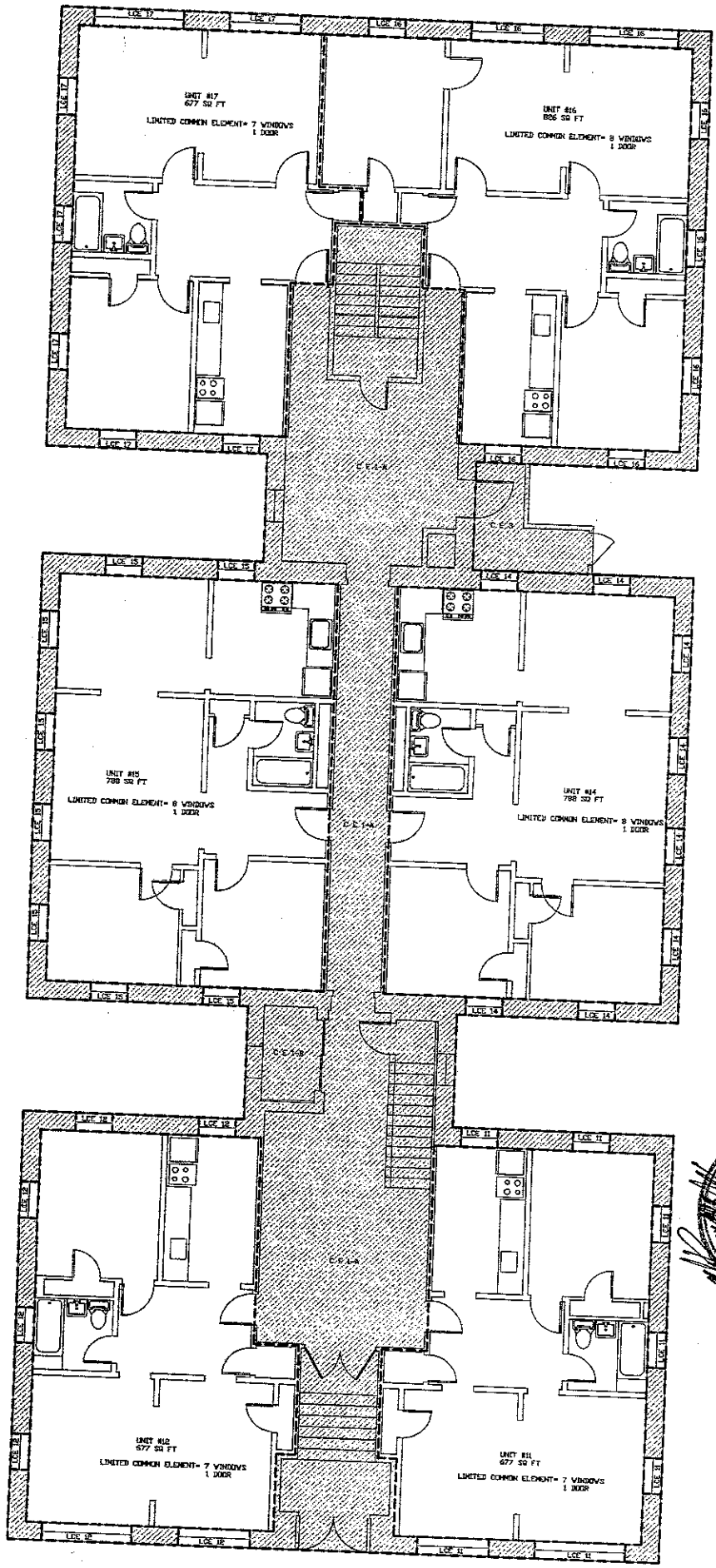

REGISTERED ARCHITECT
WILLIAM E. HAMILTON
No. 1342
STATE OF MAINE

NOTE:
SQ FT= SQUARE FEET
CE= COMMON ELEMENTS
1= FIRST FLOOR
A= HALLWAY/STAIRS
B= ELEVATOR
3= EXIT STAIR
LCE= LIMITED COMMON ELEMENTS

JOY & HAMILTON ARCHITECTS, INC.
203 MAIN STREET
SARTORI, NC 04473
(207) 924-4997
203 COURT STREET
NORWAY, NC 04268
(207) 744-2822

REST AND CONTROLS A CONDOMINIUM
197 PINE STREET
PORTLAND
MAINE

TITLE: 1ST FLOOR PLAN
Scale: 1/4"=1'-0"
Drawn: MEL GLR
Checked:
Revisions:

SHEET: A2
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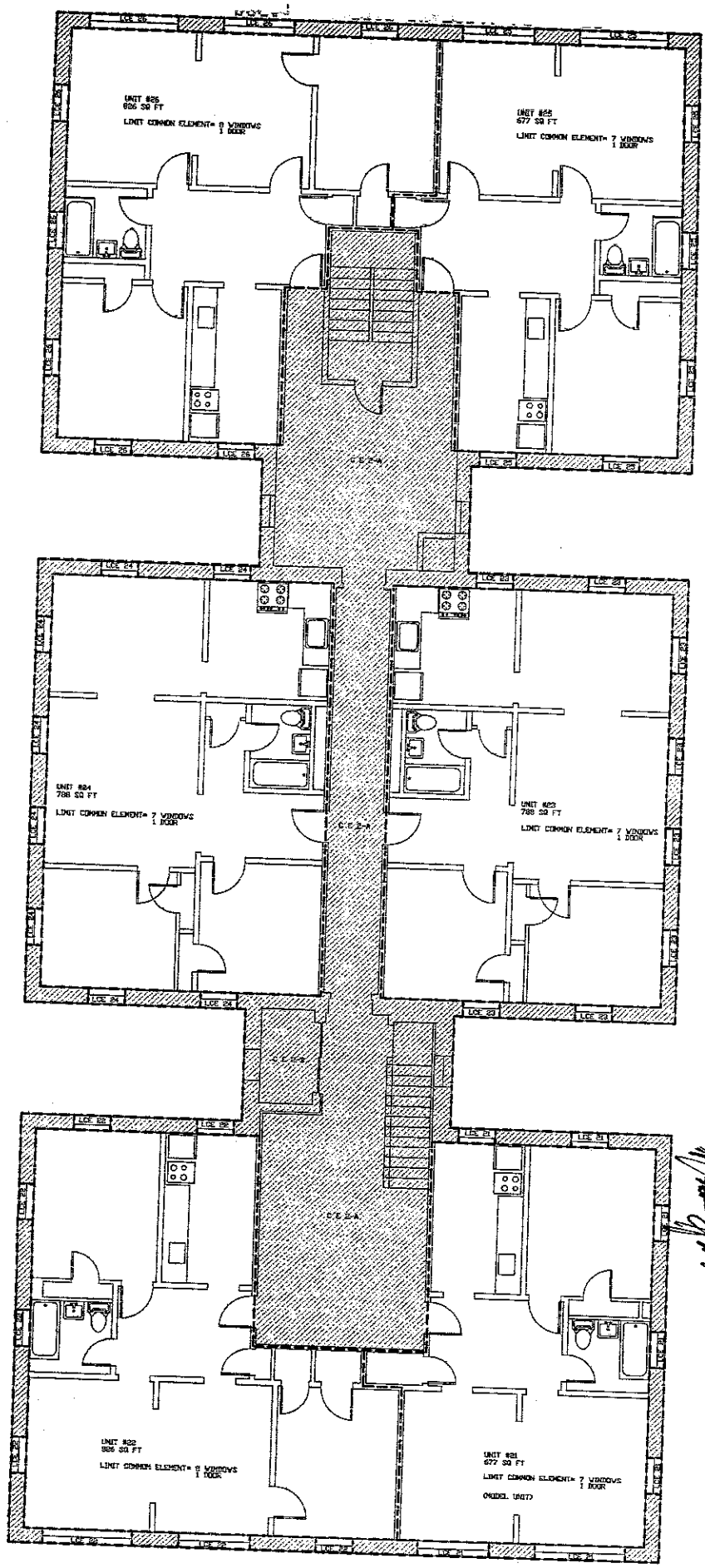


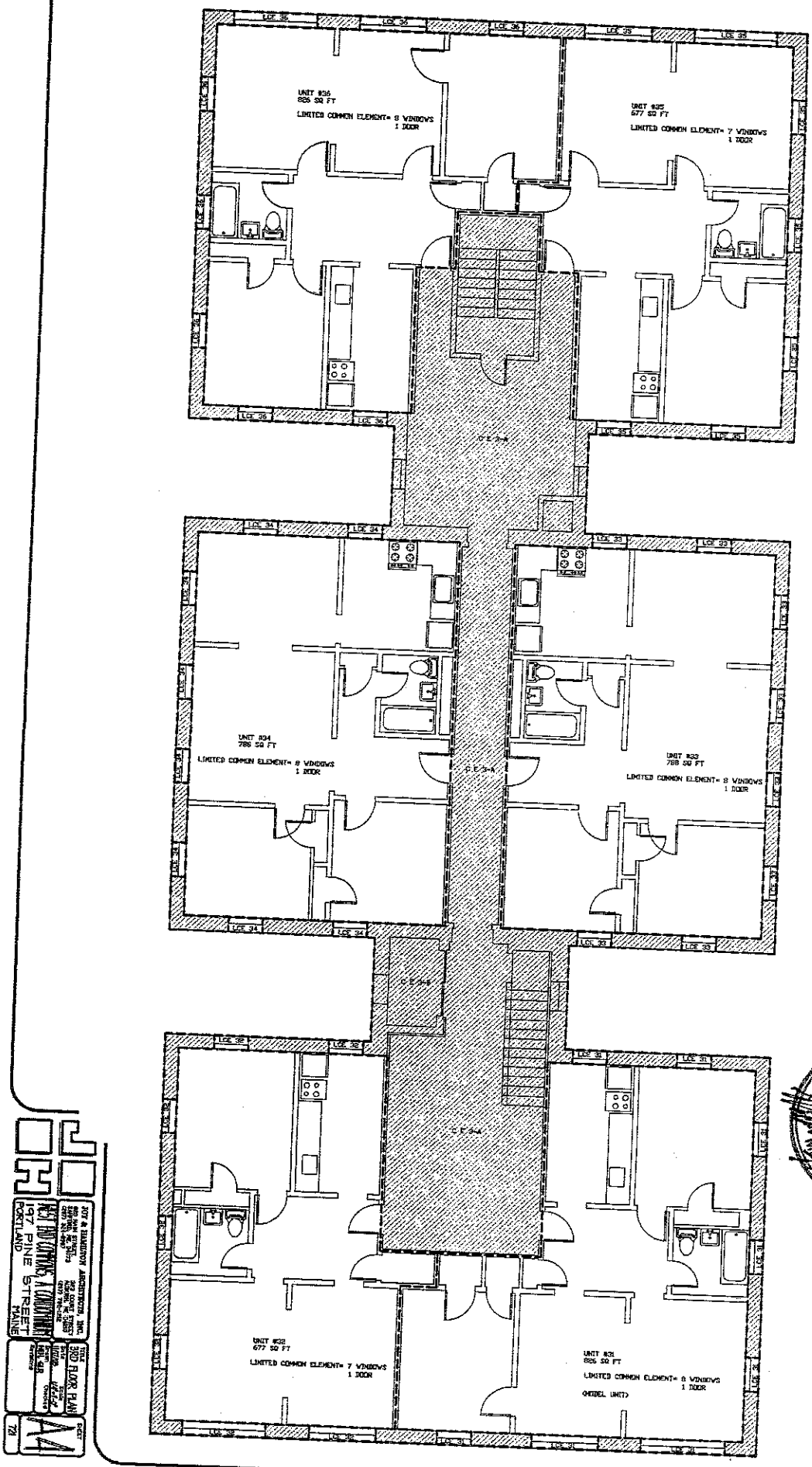
REGISTERED ARCHITECT
WILLIAM E. HAMILTON
No. 1342
STATE OF MAINE

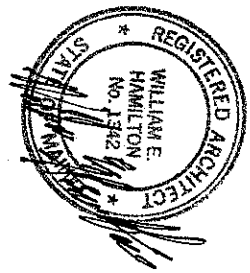
NOTE:
SQ FT= SQUARE FEET
CE= COMMON ELEMENTS
2= SECOND FLOOR
A= HALLWAY/STAIRS
E= ELEVATOR
LCE= LIMITED COMMON ELEMENTS

JOY & HAMILTON ARCHITECTS, INC.
WEST END CONDOMINIUM
197 PINE STREET
PORTLAND MAINE

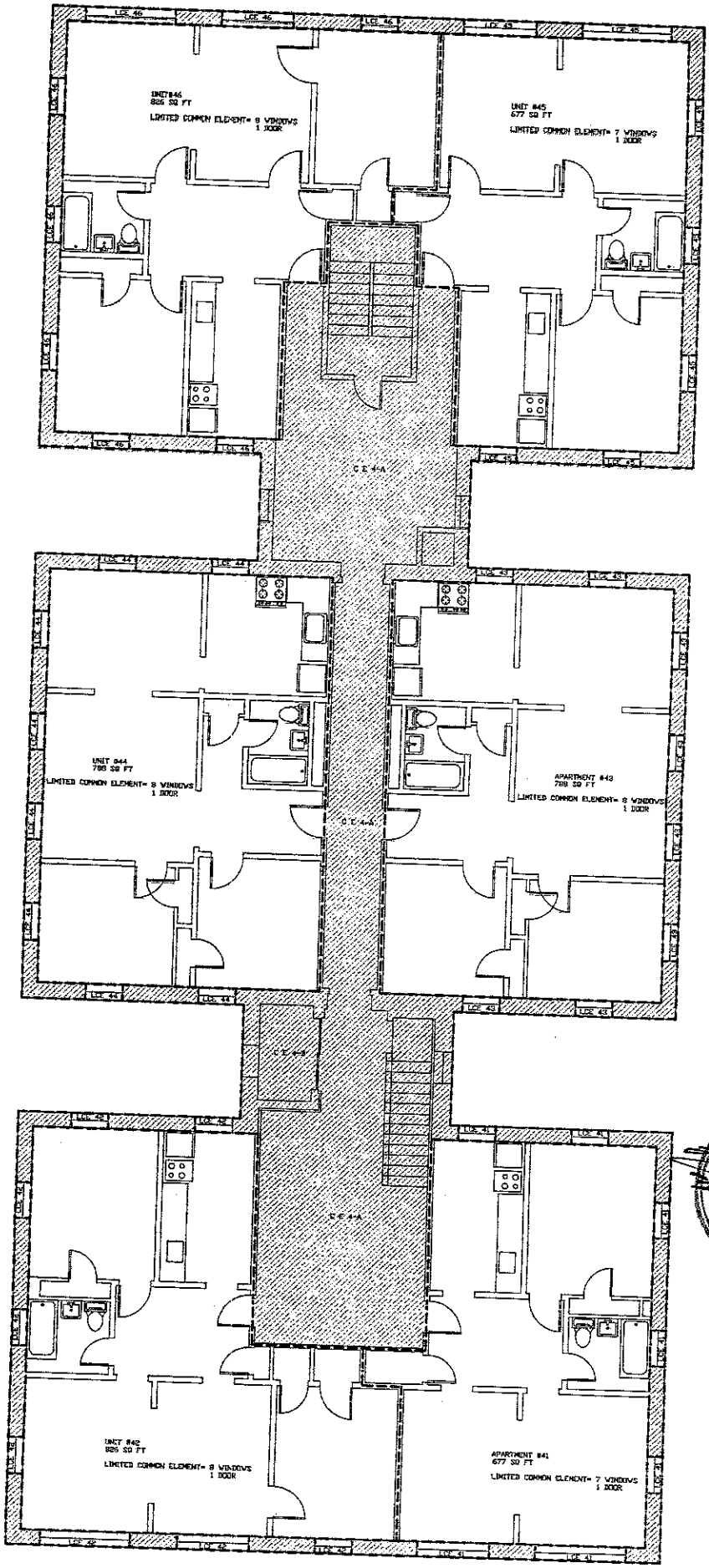
TITLE
2ND FLOOR PLAN

SHEET
A3





NOTE:
SQ FT= SQUARE FEET
CE= COMMON ELEMENTS
3= THIRD FLOOR
H= HALLWAY/STAIRS
E= ELEVATOR
LCE= LIMITED COMMON ELEMENTS



NOTE:
SQ FT= SQUARE FEET
CE= COMMON ELEMENTS
4= FOURTH FLOOR
A= HALLWAY/STAIRS
B= ELEVATOR
LCE= LIMITED COMMON ELEMENTS

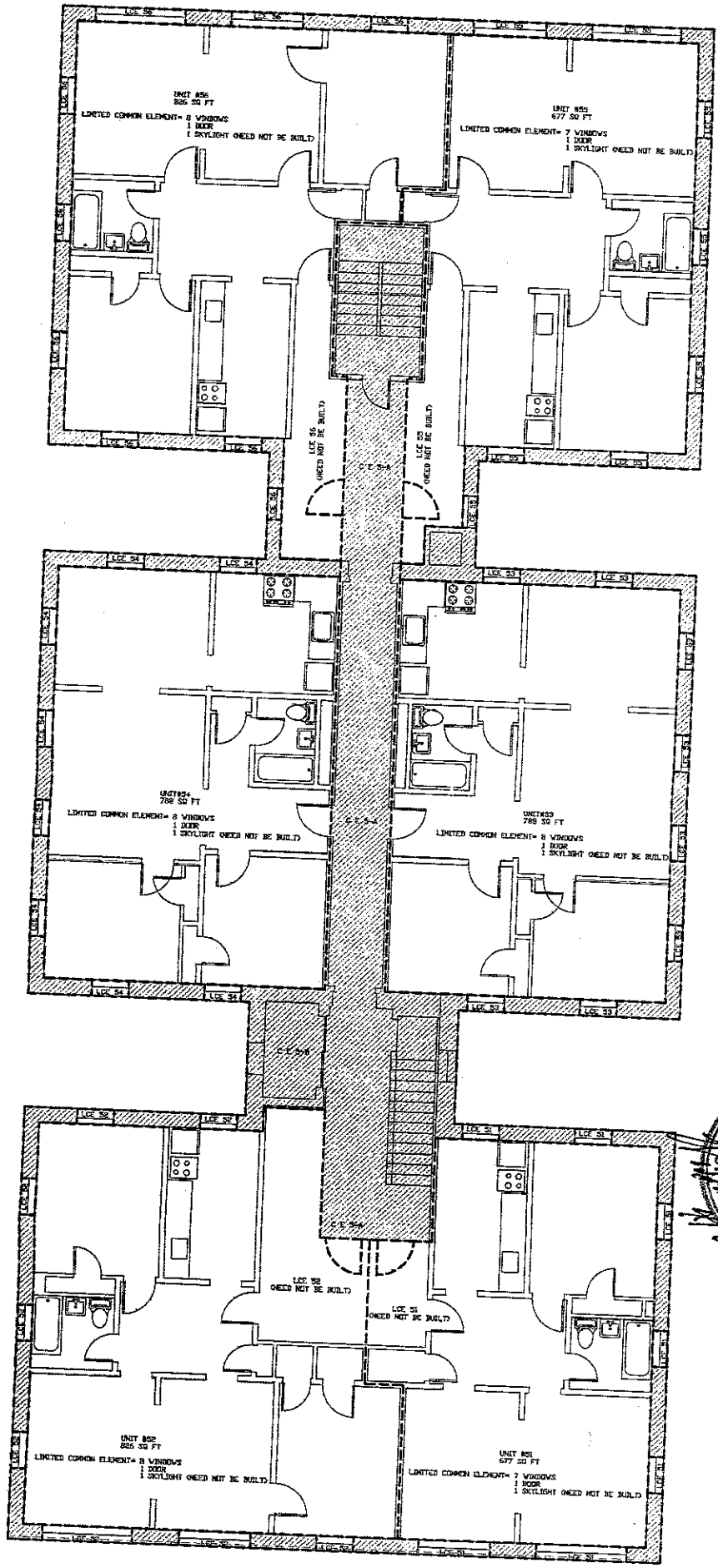
REGISTERED ARCHITECT
WILLIAM E. HAMILTON
No. 1342
STATE OF MAINE

JOY & HAMILTON ARCHITECTS, INC.
803 MAIN STREET
SANFORD, ME 04073
(207) 324-4467
(207) 782-5252

NEST END CORNER, A CONDOMINIUM
197 PINE STREET
PORTLAND MAINE

TITLE
4TH FLOOR PLAN

SHEET
A5



REGISTERED ARCHITECT
WILLIAM E. HAMILTON
No. 1302
STATE OF MAINE

NOTE:
SQ FT= SQUARE FEET
CE= COMMON ELEMENTS
5= FIFTH FLOOR
A= HALLWAY/STAIRS
B= ELEVATOR
LCE= LIMITED COMMON ELEMENTS

JOY & HAMILTON ARCHITECTS, INC.
808 MAIN STREET
SANFORD, ME 04073
(207) 324-4997
FAX 324-4998
REGISTERED ARCHITECTS & CONSULTANTS
197 PINE STREET
PORTLAND MAINE

TITLE: 5TH FLOOR PLAN
SCALE: 1/8"=1'-0"
DATE: MAR 08
DRAWN: WEH GAR
CHECKED:
REVISIONS:
SHEET: A6
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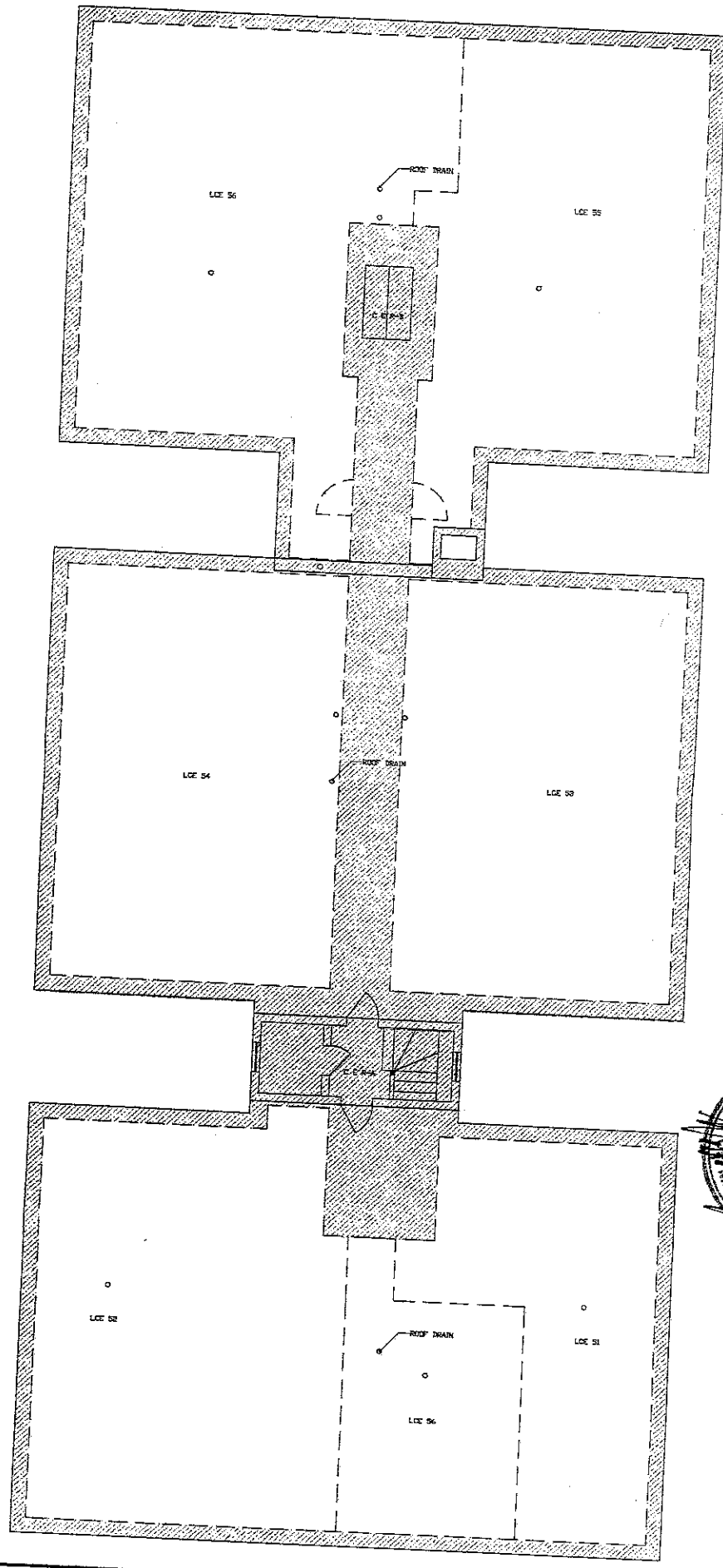


NOTE:
SQ FT= SQUARE FEET
CE= COMMON ELEMENTS
R= ROOF
A= ROOF ACCESS WAY
B= SKYLIGHT
LCE= LIMITED COMMON ELEMENTS

REGISTERED ARCHITECT
WILLIAM E. HAMILTON
No. 11842
STATE OF MAINE

JOY & HAMILTON ARCHITECTS, INC.
203 MAIN STREET
SUITE 200
NORTH ANDOVER, MA 01845
(617) 263-6967
(617) 794-1582

JOY & HAMILTON ARCHITECTS, INC.
203 MAIN STREET
SUITE 200
NORTH ANDOVER, MA 01845
(617) 263-6967
(617) 794-1582

1957 DEVELOPMENT, A CONDOMINIUM
197 PINE STREET
PORTLAND MAINE

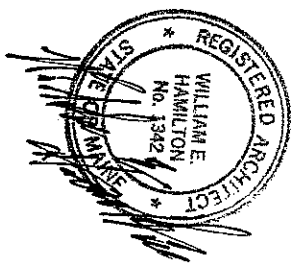
TITLE: ROOF PLAN
Scale: 1/8"=1'
Drawn: MEJ GR
Checked:
Revisions:

SHEET A7
721



PINE STREET ELEVATION

NOTES:
SF FT= SQUARE FEET
CE= COMMON ELEMENTS
C/S= CEILING OF UNIT BELOW/ FLOOR OF UNIT ABOVE
LCE= LIMITED COMMON ELEMENTS



Received
Recorded Register of Deeds
Feb 09,2004 10:07:59A
Cumberland County
John B. O Brien

97 PINE STREET PORTLAND MAINE

EXTERIOR ELEVATION

A8