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Instr# 200300012283
Linn County Iowa
JOAN MCCALMANT RECORDER
BK 4789 PG 279-290

FIFTH AMENDMENT TO DECLARATION OF SUBMISSION OF PROPERTY TO HORIZONTAL PROPERTY REGIME FOR MAGNOLIA LANE, A CONDOMINIUM

The undersigned, J.D. & D., L.C., (referred to hereafter as "Developer"), hereby causes to be executed and hereby executes this instrument as the Fifth Amendment to the Declaration of Submission of Property To Horizontal Property Regime For Magnolia Lane, A Condominium (referred to hereafter as "Declaration"), all pursuant to Chapter 499B, Code of Iowa, entitled "Horizontal Property Act (Condominiums)" which Declaration was filed in the Office of the Linn County, Iowa, Recorder on November 22, 1999, in Volume 4010 beginning at Page 629. This Fifth Amendment shall take effect when filed for record in the Office of the Recorder, Linn County, Iowa.

ARTICLE I

PURPOSE

The purpose of this Fifth Amendment is to fully describe and define Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6, all as required and permitted by Article VI of the Declaration.

ARTICLE II

DESCRIPTION OF UNITS 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6; PRINCIPAL MATERIALS

1. Submission of Units. Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 are hereby submitted to the Horizontal Property Regime for Magnolia Lane, A Condominium.

2. Site Plan. The construction of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 is not completed. Following construction of the Units, the Developer will record a Site Plan, Exhibit B-5, to show the actual location on an as-built basis of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6. The Site Plan will also show graphically the proposed location of certain common elements. See Section 1 of Article III of this Amendment.

3. Particulars of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6. Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 are located in a six-plex style building. The location of all Units will be shown on the Site Plan to be filed after completion of the construction of the Units. Each Unit generally has two floors and a finished or unfinished basement. Further, each Unit includes a one (1) stall garage, which is located on the first floor and is accessible directly from the Unit.

Each Unit adjoins a deck or a patio, which is a limited common element for that Unit and which is located opposite a portion of the exterior living room wall and can be reached by a glass sliding door. The other particulars of the Units and floor plans are shown by Exhibit C-5 but are summarized as follows: Each Unit contains generally two (2) bedrooms, a living room, dining room, kitchen, one (1) full bath, one (1) half bath, laundry room, closets, a stairway and a one (1) stall garage.

4. Principal Materials. The principal materials of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 are shown on Exhibit F-5, attached hereto.

ARTICLE III

EXHIBITS; IDENTIFICATION OF UNITS

1. Exhibits; Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6. The location of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6, the number of rooms for each Unit, the approximate dimensions and the approximate area of the Units, the common area to which they have access, and the area and location of all common elements affording access to each Unit are or will be shown and depicted by survey, plans and/or graphically insofar as possible on certain Exhibits attached to the Declaration and on Exhibit B-5, Site Plan, to be recorded after the construction of the Units to show the Units on an as-built basis. Exhibit C-5, Floor Plans for Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6, are attached hereto and made a part hereof.

2. Complete Plans and Surveyor's Certificate. The complete plans of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 are the same as shown on Exhibit D, as attached to the Declaration of Submission of Property to Horizontal Property Regime for Shelley Lane, a Condominium, which Declaration was filed in the Office of the Linn County, Iowa, Recorder on December 21, 2001, in Volume 4552, beginning at Page 428. After completion of construction of the Units, an Engineer's Certificate with respect to Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 will be recorded to reflect the Units on an as-built basis. The Engineer's Certificate will be recorded as Exhibit E-5 to this Amendment.

3. Effect of Amendment. Upon the recording of this Amendment, Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 are Units which are capable of being owned as separate parcels of real estate. Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 shall be the property of the Developer and shall be subject to the Declaration, as amended, as if each Unit had been initially submitted to the Regime by the Declaration. Except as specifically amended hereby, the Declaration shall remain in full force and effect. Pursuant to Article VI, paragraph seven (7) of the Declaration, the fractional interest appurtenant to each Unit previously existing in the regime is revised upon the filing of this amendment from a 1/30th fractional interest to a 1/36th fractional interest, as reflected in paragraph four (4) below and in Exhibit G-5 attached hereto.

4. Identification of Units by Number; Fractional Interest. The Unit number of each Unit existing in the regime and its approximate area are set forth on Exhibit G-5 attached hereto. Exhibit G-5 also sets forth the fractional interest of undivided ownership in the land and other common elements of the regime, which is appurtenant to each Unit as explained in detail in Article V of the Declaration. As additional amendments to this Declaration are filed to identify and define additional Units, Exhibit G-5 will be supplemented to provide information for such Units.

5. Construction of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6. The construction of Units 680-1, 680-2, 680-3, 680-4, 680-5 and 680-6 shall be in accordance with the terms of this Amendment and the Declaration and the plans and exhibits attached hereto, except Developer reserves the right on its own initiative or pursuant to agreement with the purchaser of a particular Unit, or at the instance of mortgagees, any insurance carrier, the architect, or the public authorities to make or authorize variations therefrom or adjustments of an insubstantial character which are not meaningfully prejudicial to the rights of owners and do not materially affect such rights or the value of a Unit, which variations or adjustments are permitted without the necessity of consent by other owners and shall not constitute an amendment of this Declaration. Variations which do materially affect such rights or value shall include, but not be limited to, a change in the location of the condominium, a reduction by more than ten percent (10%) in size of a Unit and a change in the physical layout of design of a unit, except that slight deviations required by construction or arising from the installation of the walls and/or partitions, changes in the location or design of a non-load bearing partition, closet or other feature within a Unit, and slight variations in the location of the condominium which an accurate survey would show are permitted and the right to make the same are reserved by Developer.

ARTICLE IV

VOTING RIGHTS

The provisions of the first sentence of Section 2 of Article V of the Declaration are superseded. The total number of votes outstanding and entitled to be cast by owners is thirty-six (36), which is equal to the number of Units.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be duly executed this 19 day of August, 2002.

J.D. & D., L.C.

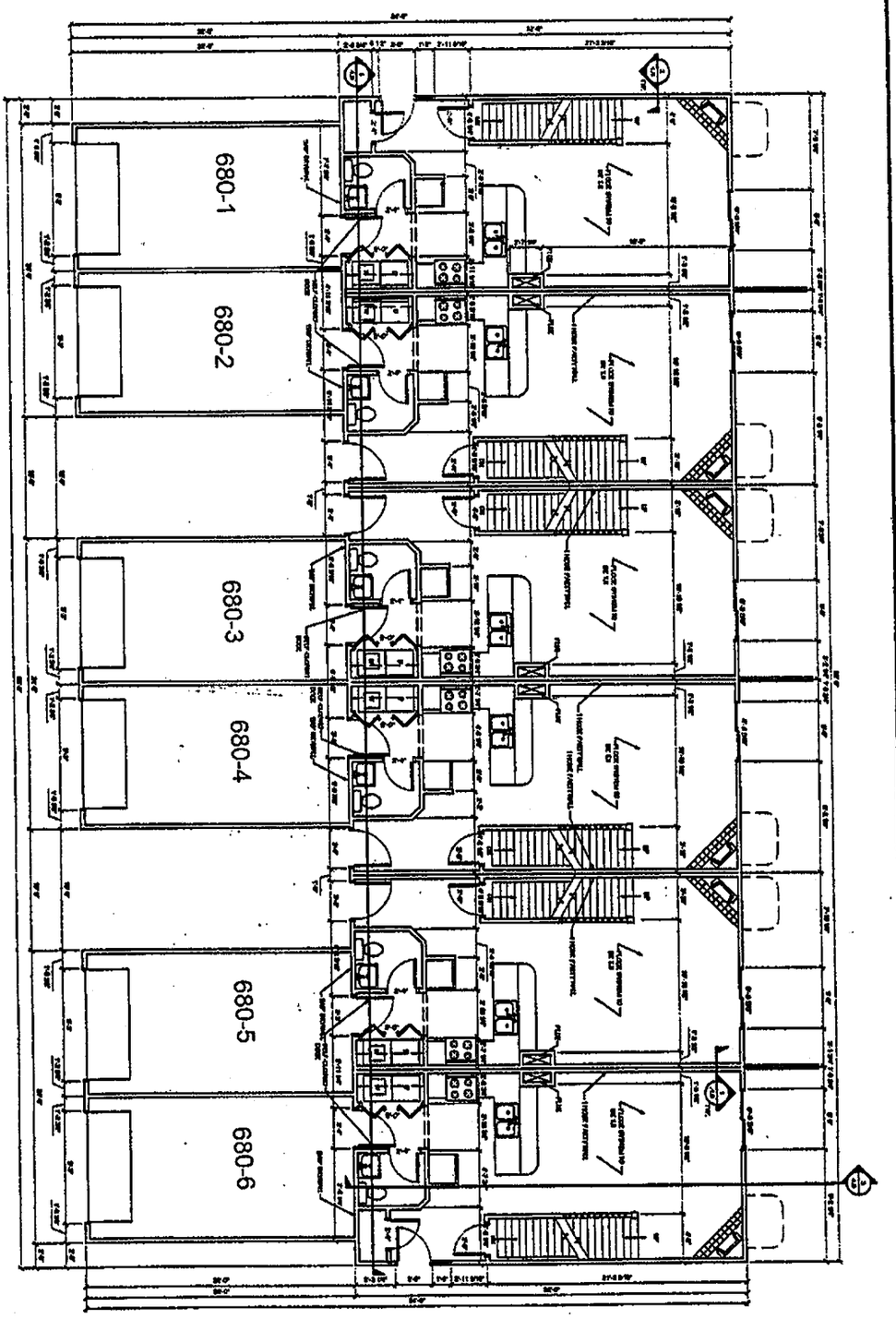
By: _____
DARRYL T. HIGH, Member

STATE OF IOWA)
) ss:
COUNTY OF LINN)

On this 20th day of August, 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared DARRYL T. HIGH to me known to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

_____
Notary Public in and for the State of Iowa

LYNETTE M. OTTE
Commission Number 229966
My Commission Expires
12-16-02



1 FIRST FLOOR PLAN
1/8" = 1'-0"

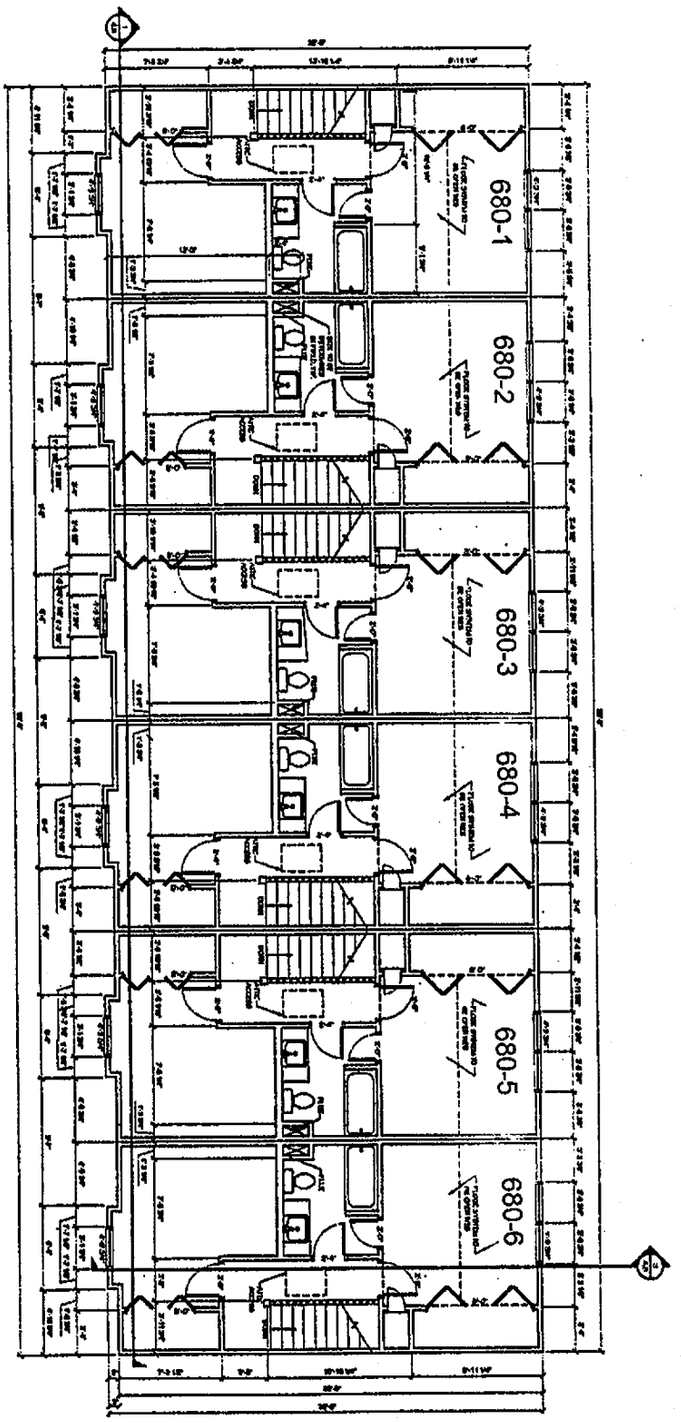
HIGH DEVELOPMENT CORP.

41

FIRST FLOOR PLAN

Exhibit C-5 (Page 1)

HIGH DEVELOPMENT CORP.



1 SECOND FLOOR PLAN
1/8" = 1'-0"

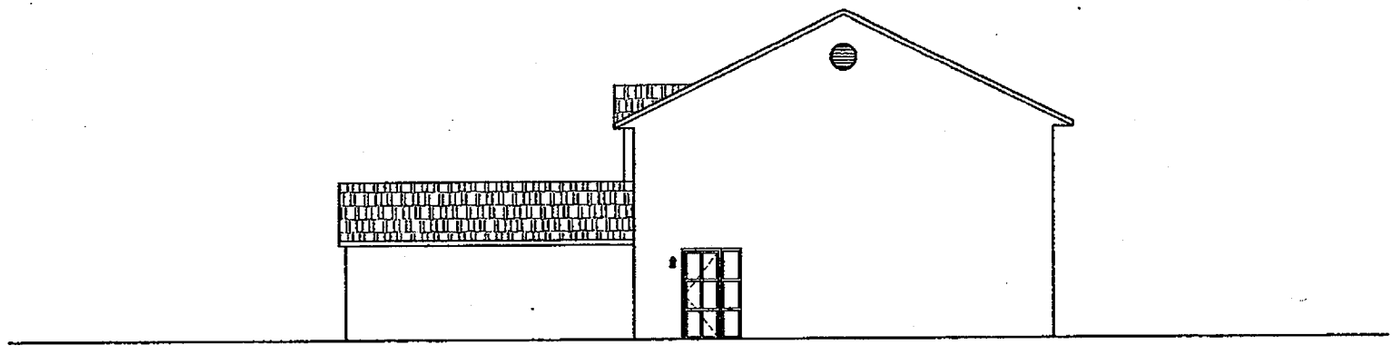
HIGH DEVELOPMENT CORP.

4.2

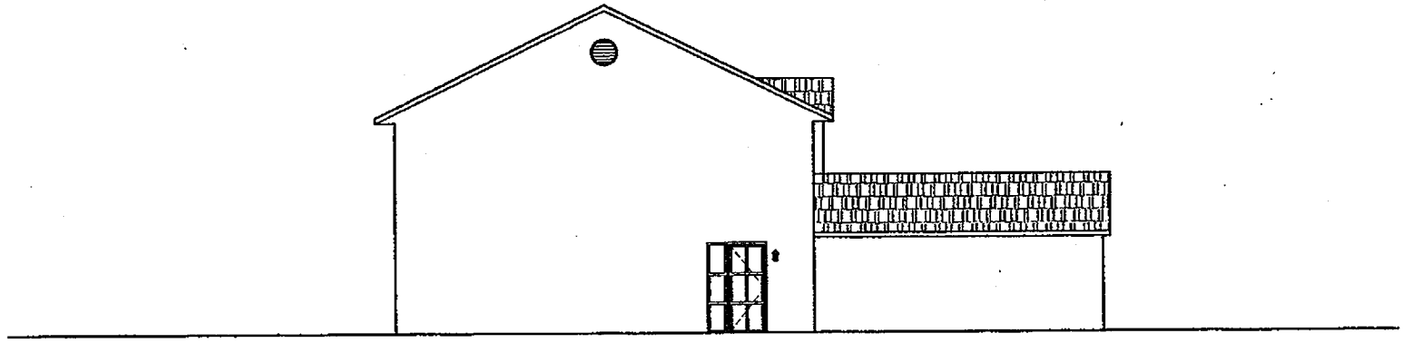
SECOND FLOOR PLAN

Exhibit C-5 (Page 2)

HIGH DEVELOPMENT CORP.



1 SIDE ELEVATION
1/8" = 1'-0"



2 SIDE ELEVATION
1/8" = 1'-0"

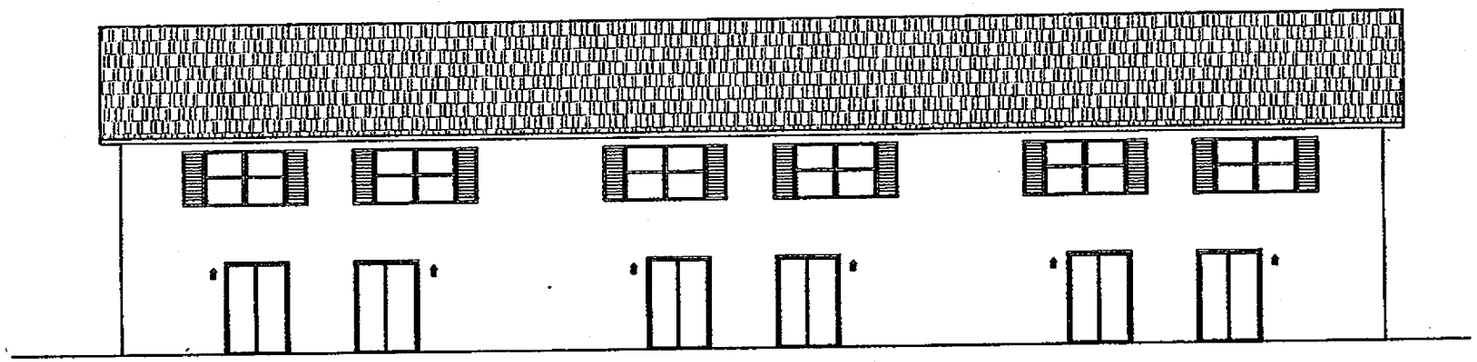
HIGH DEVELOPMENT CORP.

Exhibit C-5 (Page 3)

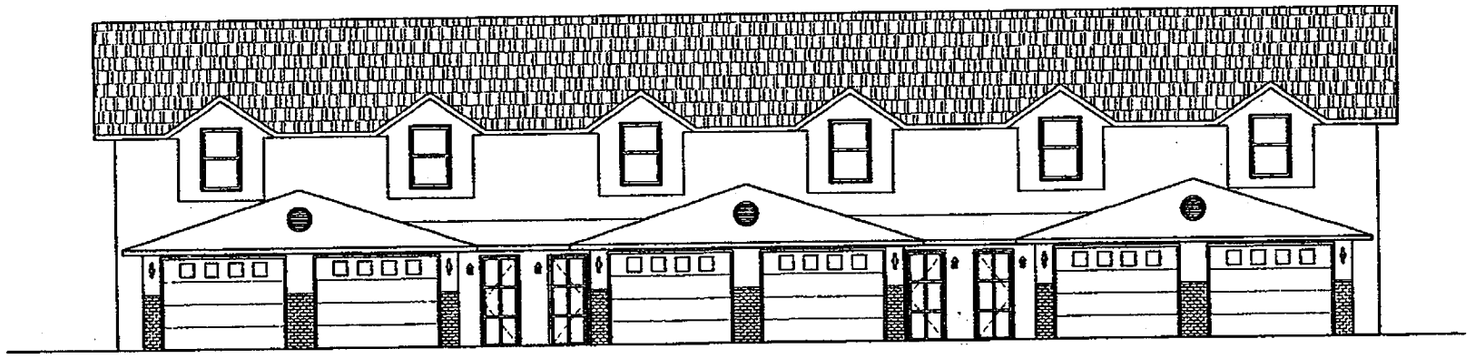
ELEVATIONS

4.4

HIGH DEVELOPMENT CORP.



1 REAR ELEVATION
1/8" = 1'-0"



2 FRONT ELEVATION
1/8" = 1'-0"

HIGH DEVELOPMENT CORP.

Exhibit C-5 (Page 4)

ELEVATIONS

4.3

HIGH DEVELOPMENT CORP.

PRINCIPAL MATERIALS

Foundation footings are of poured reinforced concrete. The first, or ground level floor is a reinforced concrete slab 4" thick. The fill under the slab is gravel/clean rock with 98% compaction. Exterior concrete walls, 8" think with reinforced steel rods. Floor framing is engineered floor trusses with 3/4 " o.s.b. and 3/4 " gypcrete sound proofing (2nd and 3rd floor only).

Typical exterior wall is 5/8" gypsum board throughout, over vapor barrier and R-19 insulation between 2"x6" studs; 7/16" OSB sheathing. Vinyl siding, aluminum soffit and gutter material.

Interior partitions are 2 x 4 studs at 16" o.c. with 5/8 "gypsum board throughout.

Roof system is pre-engineered wood trusses throughout, 24" o.c. Ceilings are 5/8" sheetrock or 5/8" sheetrock with metal channel and R-38 insulation at level 3. Level 1 and 2 are 5/8 sheetrock with R-11 sound bat insulation and ½" sound board.

Roofing is 220# asphalt shingles, nailed, over one layer building felt with ventaridge ventilation.

Vinyl windows with double-insulated glass. Interior doors are 1-3'8" hollow core oak. Interior trim to match doors. Windows are wrapped openings with 3 sides painted with enamel paint, oak sills.

Kitchen contains cabinets, cultured marble countertops, electric range, refrigerator, dishwasher, garbage disposal, and microwave.

Bathrooms include (1) tub/shower module, (1) shower module, lavatories, and water closets.

Flooring coverings are vinyl with underlayment and carpet with ½" rebond pad.

Unit has gas-fired forced air furnace, central cooling system, in solid duct work, drains, and fire dampers per code. 40 gallon gas water heater and drain per code. Individual items include: encased copper wiring throughout, intercom system to common front door w/entry lock release, pre-wired cable TV outlets, pre-wired telephone outlets, venting for bath fans, dryer, furnace and water heater. Washer/dryer (gas) hookup, smoke detectors and bathroom vent fans per city code.

Ground floor units include a 8'x14' concrete patio, Units at upper levels include a wood deck w/railings.

Drives are 4000 PSI concrete or asphalt paving.

Garages are 1 stall, 2x4 studs at 16" o.c. with 7/16" OSB sheathing on exterior walls and 5/8" Type "X" gypsum board throughout. Exterior garage walls have vinyl siding, aluminum soffit, gutters and downspouts. Roofing is 220# asphalt shingles nailed, over one layer building felt. Roof

system is pre-engineered wood trusses throughout, 24" o.c. Garage doors are metal with locking mechanism.

UNIT NUMBER	AREA (SQ. FT.)	FRACTIONAL INTEREST IN COMMON ELEMENTS
2500A-1	976-Main Level	1/36
2500A-2	976-Main Level	1/36
2500A-3	976-Second Level	1/36
2500A-4	976-Second Level	1/36
2500A-5	976-Third Level	1/36
2500A-6	976-Third Level	1/36
2500B-1	976-Main Level	1/36
2500B-2	976-Main Level	1/36
2500B-3	976-Second Level	1/36
2500B-4	976-Second Level	1/36
2500B-5	976-Third Level	1/36
2500B-6	976-Third Level	1/36
2500C-1	976-Main Level	1/36
2500C-2	976-Main Level	1/36
2500C-3	976-Second Level	1/36
2500C-4	976-Second Level	1/36
2500C-5	976-Third Level	1/36
2500C-6	976-Third Level	1/36
2500D-1	976-Main Level	1/36
2500D-2	976-Main Level	1/36
2500D-3	976-Second Level	1/36

2500D-4	976-Second Level	1/36
2500D-5	976-Third Level	1/36
2500D-6	976-Third Level	1/36
2500E-1	976-Main Level	1/36
2500E-2	976-Main Level	1/36
2500E-3	976-Second Level	1/36
2500E-4	976-Second Level	1/36
2500E-5	976-Third Level	1/36
2500E-6	976-Third Level	1/36
680-1	1025	1/36
680-2	1025	1/36
680-3	1025	1/36
680-4	1025	1/36
680-5	1025	1/36
680-6	1025	1/36