

## **BURTON PLACE AT MIDTOWN CONDOMINIUM**

### **SUMMARY OF REQUIRED DISCLOSURES**

**THIS OFFERING STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.**

**THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.**

**ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DECLARANT. REFER TO THIS OFFERING STATEMENT AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.**

**THE CONDOMINIUM IS BEING SOLD AS FEE SIMPLE INTERESTS**

**UNITS MAYBE TRANSFERRED SUBJECT TO A LEASE.**

**THERE IS A CONTRACT WITH FIRST REALTY FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY FOR SO LONG AS DECLARANT RETAINS CONTROL OF THE ASSOCIATION.**

**THE DECLARANT HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER THE MAJORITY OF THE UNITS HAVE BEEN SOLD.**

**EXCEPT FOR THOSE WARRANTIES REQUIRED BY THE CONDOMINIUM ACT, THE DECLARANT DOES NOT MAKE ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND THE DECLARANT HEREBY DISCLAIMS ANY SUCH WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THE OWNERS AND THE ASSOCIATION ASSUME ALL RISK AND LIABILITY RESULTING FROM THE USE OF THIS PROPERTY**

An agreement to purchase a Unit is voidable by buyer by delivering written notice of the buyer's intention to cancel within seven (7) days of execution of such agreement by the buyer, and receipt by buyer of all of the items required to be delivered to him by the developer under §35-8A-403 through §35-8A-406, Code of Alabama (1975). An agreement to purchase a Unit is also voidable by buyer by delivering written notice of the buyer's intention to cancel within seven (7) days after the date of receipt from the developer of any amendment which materially alters or modifies the offering in a manner that is adverse to the buyer. Any purported waiver of these voidability rights shall be of no effect. Buyer may extend the time for closing for a period of not more than seven (7) days after the buyer has received all of the items required to be delivered to him by the developer under §35-8A-403 through §35-8A-406, Code of Alabama (1975). Buyer's right to void an agreement to purchase a Unit shall terminate upon the closing thereof.

**BURTON PLACE AT MIDTOWN CONDOMINIUM**

**OFFERING STATEMENT**

1. Declaration of Condominium

- Exhibit "A" Legal Description and Survey
- Exhibit "B" Association Articles of Incorporation
- Exhibit "C" Association Bylaws
- Exhibit "D" Percentage Interest in Common Elements
- Exhibit "E" Condominium Rules and Regulations

2. Budget

3. Purchase Agreement

**BURTON PLACE AT MIDTOWN CONDOMINIUM**

**OFFERING STATEMENT**

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# BURTON PLACE AT MIDTOWN CONDOMINIUM

## OFFERING STATEMENT

### 1. Description of Condominium.

The name of the condominium is BURTON PLACE AT MIDTOWN CONDOMINIUM (the "Condominium"). The Condominium Property is located in Lee County, Alabama, at 315 E. Magnolia Avenue, Auburn, Alabama, 36830, and is more specifically described in the survey attached as Exhibit "A" to the Declaration of Condominium, which is attached as Exhibit 1 to this Offering Statement. Use of the Property as a condominium is permitted under the Zoning Ordinance of the City of Auburn.

### 2. Description of Units.

The Condominium contains nine (9) Conversion Buildings with a total of seventy (70) Units, each of which contains approximately 840 square feet. Eight (8) Units are comprised of one bedroom with a study and two baths; and sixty-two (62) Units are comprised of two bedrooms and two baths. The Units have previously been leased as apartments and may be transferred subject to a lease thereof. Declarant reserves the right to remodel and upgrade the Units which are being converted to the condominium form of ownership, but is not required to do so.

### 3. Description of Common Elements.

Each Unit shall have as an appurtenance thereto an undivided share of the Common Elements which has been determined and fixed so that all Units have an equal share in said elements, which are more particularly described in Article V, Section 5.2 of the Declaration attached to this Offering Statement as Exhibit 1.

### 4. Development Rights.

Declarant, its successors and assigns, reserves the right to submit additional property to the condominium form of ownership and may specifically include said additional property as phases to this development. As such, the same shall be treated as a part of the Condominium Property as if originally so included and each Unit Owner of such phased unit shall have the same rights, privileges, burdens and duties as an original Owner. Each Owner shall also acquire Common Interest in the Common Elements included in each new Phase, as if originally included herein.

### 5. Status of Title to the Real Property.

Title to the real property underlying the Condominium is subject to the following:

a. Encumbrances. The Declarant is the fee simple owner of the property comprising the Condominium. There are no existing or intended easements located or to be located on the Condominium Property other than those described in the Declaration, which is attached to the Offering Statement as Exhibit 1 or which are described above.

b. Closing. Upon the closing of the purchase of a Unit, the Declarant will cause the lien of any mortgage on a Unit to be released as to that Unit or shall have such mortgage satisfied. Each purchaser's Unit shall be free and clear of all liens, encumbrances, defects, judgments, leases and mortgages except that each such Unit shall be subject to the following matters of title; (i) the Declaration of Condominium and all exhibits attached thereto; (ii) any mortgage

placed upon the purchaser's unit in connection with purchase money financing; (iii) taxes and assessments for the year of closing and subsequent years, including, but not limited to, pending and certified governmental liens, and (iv) any restrictions, reservations, conditions, limitations and easements placed of record prior to purchase or imposed by governmental authorities having jurisdiction or control over the property. Declarant reserves the right to place a mortgage(s) on the Condominium Property in connection with the development and construction of the project.

6. **Sale, Lease or Transfer Restrictions.** The sale of Units is not restricted or controlled. Owners may lease all or any portion of their Unit; provided that the management agent engaged by the Association is notified prior to rental or occupancy of any Unit; such notice must identify who will be occupying the Unit and the duration of such occupancy.

7. **Declarant's Control of the Association.**

THE DECLARANT HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER THE MAJORITY OF THE UNITS HAVE BEEN SOLD. The Declarant will control the Association through the appointment of a majority of the Board of Directors until such time as transfer of control of the Association is required by Alabama law. See Article IX, Section 9.5 of the Declaration, a copy of which is attached to this Offering Statement as Exhibit 1, for further details.

8. **Restrictions on Use of Units and Facilities.**

There are several restrictions on the use of the Units and facilities of the Condominium. Refer to Article XII of the Declaration, a copy of which is attached to this Offering Statement as Exhibit 1; and to the Condominium Rules and Regulations promulgated by the Board of Directors of the Association, a current copy of which is attached as Exhibit "D" to the Declaration of Condominium, which is attached as Exhibit 1 to this Offering Statement.

9. **Apportionment of Common Expenses and Common Elements.**

Each Unit in the Condominium has appurtenant to it an equal share of the common expenses and common surplus and an undivided interest in the Common Elements of the Condominium as set forth in Article VI of the Declaration attached to this Offering Statement as Exhibit 1.

10. **Annual Estimated Operating Budget: Declarant Guaranty.**

The estimated operating budget for the Condominium for 2008, which has been prepared by the Declarant, is set forth in Exhibit "2" to this Offering Statement. The Estimated Operating Budget is based on seventy Units. Until twelve (12) months from the date of closing of the first Unit in the Condominium is sold, the Declarant will pay the balance of any Common Expenses not fully paid by assessments against Unit Owners. The obligation of Unit Owners to pay assessments for Common Expenses is a personal obligation and the failure of any Unit Owner to pay such assessments may result in the filing of a lien against such Unit.

11. **Assessments and Association Fees.**

The annual regular assessment for each Unit for budget year 2008 will be payable to the Association in equal monthly installments of \$79.00 per month, on the first day of each month of the calendar year. Annual regular assessments do not include ad valorem taxes on individual Units or any special assessments that may be levied by the Association. For more information see Article VIII of the Declaration, which is attached as Exhibit 1 to the Offering Statement, and the Annual Estimated Operating Budget, which is attached as Exhibit 2 to the Offering Statement.

12. **Closing Costs.**

As set forth in the Purchase Contract, a specimen copy of which is attached to this Offering Statement as Exhibit 3, a Purchaser can expect to pay all closing costs associated with the purchase of a Unit. Such closing costs include the cost of Alabama deed taxes on the deed of conveyance, recording fees, attorney document preparation fee and purchaser's share of prorated ad valorem taxes. If purchaser finances any portion of the purchase price, purchaser shall also be responsible for paying all closing costs connected with said financing, including, but not limited to, Alabama mortgage tax, the cost of recording the mortgage, and the premium for a mortgagee policy of title insurance.

Purchaser shall also be required to pay at closing the prorated monthly assessment of condominium fees and an initial contribution to the working capital funds of Burton Place at Midtown Condominium Association, Inc. in the amount of \$170.00, which is equal to two (2) months condominium dues. The initial contribution shall not constitute a payment of any form towards the owners' required condominium dues.

13. **Financing.**

The Developer does not offer or arrange, nor is Developer responsible in any way for, financing the purchase of any Unit. If the Purchase Agreement does not contain a provision conditioning the Purchaser's obligation to perform the contract upon obtaining financing, the Purchaser will forfeit any deposits paid, if the Purchaser requires financing but does not qualify for such financing.

14. **Zoning.**

Use of the Condominium Property as a condominium is permitted under the Zoning Ordinances of the City of Auburn.

15. **Insurance.**

The requirements as to insurance for the Condominium and the Unit Owners are provided in Article X of the Declaration. The Association is required to obtain, maintain and pay the premiums on such coverage, as a Common Expense.

16. **Escrow Account for Deposits.**

Any deposit made in connection with the purchase of a unit will be held in escrow by the listing agent and will be returned to the purchaser, if the purchaser cancels the contract pursuant to section 35-8A-408. The name and address of the listing agent is set forth in the executed Construction Contract.

17. **Description of Declarant.**

The Declarant of this Condominium is Burton Place at Midtown, LLC, an Alabama limited liability company, whose principals have been involved in the development of real estate in Auburn, Alabama.

This Offering Statement has been prepared by the Declarant, **BURTON PLACE AT MIDTOWN, LLC**, as of the 14<sup>th</sup> day of November, 2007.

**PURCHASER IS REQUIRED TO SIGN AND DATE THE RECEIPT CONTAINED ON THE LAST PAGE OF THIS DOCUMENT ON THE DATE OF ACTUAL RECEIPT THEREOF.**

Exhibit 1 to Offering Statement  
Declaration of Condominium

See attached

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**DECLARATION OF CONDOMINIUM**

**OF**

**BURTON PLACE AT MIDTOWN,  
A CONDOMINIUM**

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**DECLARATION OF CONDOMINIUM  
OF  
BURTON PLACE AT MIDTOWN, A CONDOMINIUM**

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## EXHIBITS

- Exhibit "A" Legal Description and Survey
- Exhibit "B" Association Articles of Incorporation
- Exhibit "C" Association Bylaws
- Exhibit "D" Percentage Interest in Common Elements
- Exhibit "E" Condominium Rules and Regulations

## DECLARATION OF CONDOMINIUM

OF

### BURTON PLACE AT MIDTOWN, A CONDOMINIUM

This Declaration is made this \_\_\_ day of \_\_\_\_\_, 2007 by BURTON PLACE AT MIDTOWN, LLC, an Alabama limited liability company, whose address is P.O. Box 1437, Auburn, Alabama 36831 (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of all of the real property described in Exhibit "A," attached hereto and made a part hereof. By this Declaration, the Declarant intends to convert said property and the apartment units situated thereon to the condominium form of ownership, thereby establishing a Condominium under the provisions of Code of Alabama, 1975, Title §35-8A-101, et seq., as amended, hereinafter called the "Condominium Act;" and

WHEREAS, the Condominium shall be comprised nine (9) Conversion Buildings containing a total of seventy (70) Units and certain Common Elements as shown on Exhibit "A" attached hereto and made a part hereof. The Condominium is located in Auburn, Lee County, Alabama.

WHEREAS, the Units are intended for residential use. Accordingly, the Declarant makes the following representations:

- (a) To the best of Declarant's knowledge, the structural components and mechanical and electrical installations which are material to the use and enjoyment of the Conversion Buildings were originally constructed in 1982 and have recently been renovated by Declarant; and
- (b) There are no outstanding notices of incurred violations of any building code or other municipal regulations and, accordingly, no costs are to be expended or reserved to cure such violations.

NOW THEREFORE, the Declarant, pursuant to the Condominium Act, does hereby declare and state on behalf of itself, its successors and assigns, and on behalf of all persons having or seeking to acquire any interest of any nature whatsoever in the Property, as follows:

The Declarant is the owner in fee simple of and hereby submits that portion of the Property hereinafter described, together with all improvements, buildings, structures and all permanent fixtures thereon, and all rights and privileges belonging or in anyway pertaining thereto, to the provisions of the Condominium Act referenced above. In addition, Declarant, its successors and assigns may subsequently hereto convert additional units and/or submit additional property to the provisions of this Declaration and the condominium form of ownership and may specifically include

said additional units and/or property as phases to this development and, as such, the same shall be treated as a part hereof as if originally so included and each Unit Owner of such phased unit shall have the same rights, privileges, burdens and duties as an original Owner. Each Owner shall also acquire Common Interest in the Common Elements included in each new Phase, as if originally included herein.

## **ARTICLE I**

### **NAME AND LEGAL DESCRIPTION**

1.1 Name. The name by which this condominium is to be identified is **Burton Place at Midtown, a Condominium** (the "Condominium").

1.2 Legal Description. Declarant is the owner of that certain real property located in Lee County, Alabama, more particularly described in the attached Exhibit "A", which is incorporated herein by this reference. The property that is hereby submitted to the condominium form of ownership under this Declaration of Condominium consists of that certain real property set forth in the attached Exhibit "A" together with those easements more specifically and particularly described in Article IV herein.

## **ARTICLE II**

### **DEFINITIONS**

The terms used in this Declaration and in its Exhibits, including the Articles of Incorporation and Bylaws of the Association, shall be defined in accordance with the provisions of Title 35, Chapter 8A, Code of Alabama (1975) and as follows unless the context otherwise requires:

2.1 Ad Valorem Real Estate Taxes shall mean those real property taxes assessed against the Units and their respective undivided interests in the Common Elements by the Revenue Commissioner of Lee County, Alabama.

2.2 Articles of Incorporation shall mean the Articles of Incorporation of the Association, as they may be amended from time to time. A copy of the Articles of Incorporation is attached hereto as Exhibit "B" and incorporated herein by reference.

2.3 Association shall mean **Burton Place at Midtown Condominium Association, Inc.**, a non-profit Alabama corporation, and its successors, which is the entity responsible for the administration, operation and management of the Condominium.

2.4 Bylaws shall mean the duly adopted Bylaws of the Association as they may be amended from time to time. A copy of the Bylaws is attached hereto as Exhibit "C" and incorporated herein by reference.

2.5 Common Elements shall mean all of those items defined in the Condominium Act as Common Elements and those items hereinafter declared to be included within the Common Elements.

2.6 Common Expenses shall include:

a. Expenses of administration, operation and management of the Condominium Property and of the Association including, without limitation, compensation paid by the Association to a manager, accountant, attorney or other employee or independent contractor.

b. Expenses of maintenance, operation, repair and replacement of the Common Elements, as well as all other costs and expenses properly incurred by the Association.

c. Expenses declared Common Expenses by the provisions of this Declaration, the Condominium Documents or the Condominium Act.

d. Any valid charge against the Condominium Property as a whole.

e. All costs and expenses incurred by the Association in connection with regulatory compliance.

f. All reserves for replacement and maintenance of the Condominium Property as required by the Condominium Act.

Common Expenses shall not include direct expenses of rental of individual Units or Ad Valorem Real Estate Taxes assessed against each Condominium Parcel.

2.7 Common Surplus shall mean any excess of all receipts of the Association over the amount of the Common Expenses.

2.8 Condominium shall mean and refer to Burton Place at Midtown, a Condominium, and consists of the Condominium Property submitted to the condominium form of ownership by this Declaration.

2.9 Condominium Act or Act shall mean the provisions of Title 35, Chapter 8A, Code of Alabama (1975), as the same are constituted on the date of recording of this Declaration.

2.10 Condominium Documents shall include this Declaration, together with exhibits attached hereto and all other documents expressly incorporated herein by reference, as the same may be amended from time to time.

2.11 Condominium Parcel is a Unit, together with the undivided share in the Common Elements and Common Surplus which are appurtenant to the Unit.

2.12 Condominium Property shall mean and include the lands, leaseholds, easements and personal property including, without limitation, the Common Elements that are subjected to condominium ownership from time to time as part of this Condominium, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with this Condominium.

2.13 Condominium Rules and Regulations shall mean and refer to the rules and regulations concerning the use of Condominium Property as may be promulgated and amended from time to time by the Association in the manner provided by its Articles of Incorporation and Bylaws. A copy of the initial Condominium Rules and Regulations are attached hereto as Exhibit "E".

2.14 Conversion Building shall mean a building that before creation of the Condominium was occupied by persons other than the Unit Owner and persons who occupy with the consent of the Unit Owner.

2.15 Declarant shall mean Burton Place at Midtown, LLC, an Alabama limited liability company, its successors and assigns. No party other than Burton Place at Midtown, LLC shall exercise the rights and privileges reserved herein to the Declarant unless such party shall receive and record in the Office of the Judge of Probate of Lee County, Alabama, a written assignment from Burton Place at Midtown, LLC thereof.

2.16 Declaration shall mean this Declaration of Condominium of Burton Place at Midtown, a Condominium, as it may be amended from time to time, pursuant to the provisions hereof.

2.17 Exhibits referred to in this Declaration shall include the following:

Exhibit "A". A legal description of land committed to the condominium form of ownership pursuant to this Declaration, together with a graphic description of the Units located thereon which, together with this Declaration, are of sufficient detail to identify the Common Elements and each Unit and their relative locations and approximate dimensions. As set forth in Exhibit "A", each Unit is identified by a number so that no Unit bears the same designation as any other Unit. The condominium plant is also recorded in Condominium Book \_\_\_\_, at Page \_\_\_\_, in the Office of the Judge of Probate for Lee County, Alabama.

Exhibit "B". The Articles of Incorporation of the Association.

Exhibit "C". The Bylaws of the Association.

Exhibit "D". Percentage Interest in the Common Elements.

Exhibit "E". The Condominium Rules and Regulations.



2.18 Limited Common Elements shall mean and include those Common Elements which are reserved for the use of a certain Unit to the exclusion of other Units.

2.19 Management Company shall mean any entity, and its successor and assigns, engaged to manage the Condominium pursuant to the Management Contract.

2.20 Management Contract shall mean the agreement between the Association and any Management Company which provides for the ongoing management of the Condominium.

2.21 Mortgagee shall mean the Declarant (and any successor-in-interest to the Declarant as to a purchase-money mortgage), the Federal Nation Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or any trust, savings and loan association, credit union, mortgage company, bank, insurance company, or commercial loan company licensed to do business in the State of Alabama, to the extent that any of the same hold a first mortgage encumbering any Unit.

2.22 Unit shall mean a condominium unit as that term is defined in the Condominium Act and in Article V of this Declaration and refers to that part of the Condominium Property which is subject to exclusive ownership by one or more persons.

2.23 Utility Services shall include, without limitation, electric power, cable television, water, and sewer disposal and telephone service, and all other public service and convenience facilities.

### **ARTICLE III**

#### **INITIAL CONVERSION AND DEVELOPMENT RIGHTS**

There are constructed on the Condominium Property nine (9) Conversion Buildings which contain a total of seventy (70) units, each of which has heretofore been leased as an apartment. The Condominium Property also contains outside parking spaces, landscaped areas, a pool, a gazebo and other usual appurtenances. Additional property may be submitted to the provisions of this Declaration by an instrument executed by the Declarant in the manner required for the execution of deeds and recorded in the Probate Office of Lee County, Alabama, which instrument shall be deemed an amendment to this Declaration and need not be consented to or approved by any Owner or Mortgagee of any Unit.

Pursuant to the Code of Alabama § 35-8A-205 (a)(8), to exercise any development right reserved under said section, the Declarant shall prepare, execute, and record an amendment to the Declaration as specified in Code of Alabama § 35-8A-217 and comply with Code of Alabama § 35-8A-209. All additional Units must be converted to the condominium form of ownership, if at all, within ten (10) years from the date of recording of this Declaration of Burton Place at Midtown, a Condominium.

**ARTICLE IV**  
**EASEMENTS, LIENS AND ENCUMBRANCES**

The following easements are hereby expressly reserved or have been granted:

4.1 General Easements. Non-exclusive easements over, across and under the Condominium Property are expressly provided for and reserved in favor of the Declarant, the Owners and their respective lessees, guests and invitees, as follows:

a. Utilities. Easements are reserved over, across and under the Condominium Property as may be required for Utility Service in order to serve the Condominium adequately, including, without limitation, easements for the purpose of allowing such access rights as are necessary to utilize and service a lift station or terminal or junction box or utility transformer boxes located within the Condominium Property. Specific utility easements that exist on Condominium Property, if any, are set forth in Exhibit "A" attached hereto.

b. Encroachments. In the event that any Unit shall encroach upon any of the Common Elements or upon any other Unit, or in the event any Common Element shall encroach upon any Unit, then an easement shall exist to permit such encroachment so long as the same shall exist.

c. Traffic. An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, halls, breeze ways, stairwells and other portions of the Common Elements as may be from time to time intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as may from time to time be paved and intended for such purposes, and such easements shall be for the use and benefit of the Owners within this Condominium and those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to park any vehicle upon any portion of the Condominium Property except to the extent that space may be specifically designated and assigned for parking purposes. Further, easements shall exist for ingress and egress over such streets, walks, and other rights-of-way serving the Units as shall be necessary to provide for reasonable access to the public rights-of-way.

4.2 Association Easements. Except as limited by the Condominium Act, the Association may grant easements from time to time over the Common Elements.

4.3 Declarant Easements. The Declarant hereby reserves the following exclusive easements and rights to grant easements.

a. Marketing, Sales and Rental. The Declarant reserves exclusive easement rights over and across the Condominium Property for the purpose of marketing, sales and rental of Units and other accommodations owned or operated by the Declarant or one of its affiliates on adjoining properties which are not part of the Condominium.

b. Governmental Requirements. The Declarant reserves the right to grant such easements from time to time as may be required by any governmental agency. Such easements shall specifically include, without limitation, any environmental easements required by state or federal environmental agencies for so long as Declarant holds any interest in any Unit subject to this Declaration.

c. Declarant Easements. The Declarant reserves unto itself, for so long as it holds any interest in any Unit (including leaseholds), specific easement rights over and across the Condominium Property as it may deem necessary for its use from time to time.

d. Construction Easements. The Declarant, on behalf of itself and its affiliates, hereby reserves easement rights over, under and across the Condominium Property as is necessary from time to time for the purpose of constructing improvements on property adjacent to and in the vicinity of the Condominium Property, but only if access thereto is otherwise not reasonably available.

4.4 Other Easements, Liens and Encumbrances. Other easements, if any, may have been granted over the Condominium Property as set forth in the survey contained in Exhibit "A" attached hereto.

## **ARTICLE V**

### **DESCRIPTION OF THE CONDOMINIUM**

5.1 Units. The Property is located at 315 E. Magnolia Avenue, Auburn, Alabama and contains nine (9) Conversion Buildings with a total of seventy (70) Units, each of which contains approximately 840 square feet. Eight (8) Units are comprised of one bedroom with a study and two baths, and sixty-two (62) Units are comprised of two bedrooms and two baths. The Units have previously been leased as apartments and may be transferred subject to a lease thereof. Declarant reserves the right to remodel and upgrade the Units which are being converted to the condominium form of ownership, but shall have no obligations to do so. The Declarant may, but shall not be obligated to, submit some or all of the remaining Property and the buildings marked "Reserved" or "Proposed" on the plat attached hereto as Exhibit A to the condominium form of ownership by recording an amendment to this Declaration.

The Conversion Buildings, which are hereby converted to the condominium form of ownership, are further depicted on the survey attached hereto as Exhibit "A," which includes the dimensions and square footage of each Unit. Each Unit shall include that part of the Conversion Building containing the Unit that lies within the following Unit boundaries:

a. Horizontal Boundaries The horizontal boundaries extended to their planar intersections with the vertical boundaries, as follows:

Upper Boundary: The horizontal plane of the lowest surface of the unfinished ceiling of the Unit.

Lower Boundary: The horizontal plane of the lowest surface of the top of the unfinished floor slab of the Unit.

b. Vertical Boundaries. The vertical boundaries of each Unit shall be the vertical planes of the exterior surfaces of exterior windows, and the exterior surfaces of the entry doors bounding a Unit, and the inside of the inner edge of the vertical studs within the walls of the Unit perimeter and extended to their planar intersections with each other and with the upper and lower boundaries.

5.2 Common Elements. Any right, title or interest in a Unit shall automatically carry with it as an appurtenance and without the necessity of specific reference thereto its respective undivided share of the Common Elements and a right to use the Common Element in conjunction with the other Owners. The Common Elements of the Condominium are all portions of the Condominium Property, other than the Units, and will include the common areas and facilities located substantially as shown on the plat and plans attached hereto as Exhibit A. Such common areas and facilities will include the following:

a. All improvements and parts of the Condominium Property which are not a Unit or Private Element, including but not limited to the pool area, the mailbox kiosk and the gazebo.

b. Parking areas, driveways, walkways and other means of ingress and egress to the Condominium Property.

c. Electrical power units, gas, water lines, sanitary and storm sewer facilities, and including all lines, pipes, ducts, flues, chutes, conduits, cables, wires and all other apparatus and installations in connection therewith, located in the Common Elements, except when such is otherwise designated as a Private Element (e.g. the lines bringing service to the Unit).

d. All foundations, slabs, columns, beams and supports of the Building, and such component parts of exterior walls and walls separating Units, roofs, floors and ceilings as are not described herein as Private Elements and the space in between, including attic space accessed from within a Unit.

e. Lawn areas, landscaping, walkways, breezeways, sidewalks, curbs and steps forming part of the Condominium Property.

f. Exterior steps, ramps, handrails, stairs, stairwells, balconies and stoops servicing such.

g. All area, outdoor and exterior lights not metered to individual Units.

h. All other parts of the Condominium Property existing for the common use or necessity of the existence, maintenance and safety of the Condominium.

i. All other items listed as such in the Act.

5.3 Limited Common Elements. Those portions of the Common Elements which are assigned to the exclusive use of a certain Unit or Units, and defined as Limited Common Elements pursuant to §35-8A-202(2) and (4) of the Act. In the event that any of the items described herein or other Common Elements serve more than one but less than all Units, such items shall be Limited Common Elements appurtenant to the Units served thereby. Reassignment of Limited Common Elements may be accomplished pursuant to §35-8A-208(b) of the Act. Assignment of Common Elements not previously assigned as Limited Common Elements may be accomplished upon the approval of a majority of the Board of Directors in accordance with procedures set forth in §35-8A-208(c) of the Act.

5.4 Warranty Limitation. EXCEPT FOR THOSE WARRANTIES REQUIRED BY THE CONDOMINIUM ACT, THE DECLARANT DOES NOT MAKE ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AND THE DECLARANT HEREBY DISCLAIMS ANY SUCH WARRANTIES, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THE OWNERS AND THE ASSOCIATION ASSUME ALL RISK AND LIABILITY RESULTING FROM THE USE OF THIS PROPERTY.

## **ARTICLE VI**

### **INTERESTS IN COMMON ELEMENTS**

6.1 Interest in Common Elements. Each Unit shall have as an appurtenance thereto an undivided share of the Common Elements and Common Surplus as more specifically described on Exhibit "D" attached hereto and by this reference incorporated herein. The Owner of each Unit shall be liable for that share of the Common Expenses which equals the percentage interest in the Common Elements and Common Surplus appurtenant to its Unit. The amount of the undivided interest in the Common Elements and Common Surplus has been determined and fixed so that all Units have an equal share in said elements. The percentage interest set forth in Exhibit "D" is based upon seventy (70) Units in the Condominium. In the event the Condominium is expanded, the percentage interest of each Unit will be adjusted proratably.

6.2 Transfer/Partition of Common Elements. The share of the undivided percentage interest in the Common Elements appurtenant to each Unit shall not be conveyed, transferred, encumbered or otherwise affected separate from ownership of the Units and any agreement to the contrary shall be void. Said interest shall remain undivided, and no Owner shall bring, or have any right to bring, any action for partition or division of same.

6.3 Additional Common Elements. The Declarant may, but shall not be obligated to, submit additional property and Units to the condominium form of ownership by recording an amendment to this Declaration. At the time of dedication of additional Units, the Common Elements and Limited Common Elements appurtenant to each Unit shall be adjusted proratably. Any person or entity who shall acquire any Unit in the original dedication, or any interest in or lien upon any such Unit regardless of whether said Unit shall be located in the original project or future developments, agrees to be bound by the terms and provisions hereof and any amendment to this Declaration shall be binding and effective as written, notwithstanding the fact that the undivided interest of the Unit Owners in the Common Elements will be changed thereby.

## **ARTICLE VII**

### **MAINTENANCE, ALTERATION AND IMPROVEMENT**

Responsibility for the maintenance of the Condominium Property, and restrictions upon its alteration and improvement, shall be as follows:

7.1 By the Association. Unless caused by the specific abuse of an Owner or any licensee, guest or tenant of an Owner, the Association shall maintain, repair and replace at the Association's expense:

- a. All Common Elements and improvements thereon, including without limitation drives, walkways, parking areas, landscaping and exterior lighting.
- b. The conduits, ducts, plumbing, wiring and other facilities for the furnishing of Utility Services, which provide such services to the Unit, but which are not contained within the boundaries of the Unit.

7.2, By the Owner. The responsibility of the Owner for maintenance, repair and replacement shall be as follows:

- a. To maintain, repair and replace all components, furnishing, carpeting, appliances and other property, real, personal or mixed, located inside or comprising a Unit unless provided otherwise in the Condominium Documents; provided however, that the Owner shall not paint or otherwise decorate or change the appearance of any portion of the exterior of the Unit or any Common Element without the prior written approval of the Association.
- b. To promptly report to the Association upon discovery any defect or need for repairs for which the Association is responsible.
- c. To bear in their entirety any expenses of repairs or replacements to the Condominium Property occasioned by the specific use or abuse by any Owner or any licensee, guest or tenant of said Owner.

d. To maintain, repair and replace the plumbing, heating, ventilation, air conditions, and electrical systems within the boundaries of and serving the Unit, including but not limited to all conduits, ducts, plumbing, wiring and other facilities for the furnishing of the heating and air conditioning unit, hot water heaters, breaker boxes, wiring, and all other plumbing, electrical, or mechanical systems.

7.3 Management Contract. The Association may enter into such management contracts from time to time as it deems necessary to engage the services of a management company to carry out all or part of the maintenance and operational duties and obligations of the Association in accordance with this Declaration.

7.4 Association's Access to Units. The Association has the irrevocable right of reasonable access to each Unit whenever necessary for maintaining the Common Elements, for making emergency repairs necessary to prevent damage to the Common Elements or to another Unit and for servicing and reading utility lines, valves, conduits and meters.

## **ARTICLE VIII**

### **ASSESSMENTS AND COMMON EXPENSES**

8.1 Common Expenses. In addition to those items defined as Common Expenses in Paragraph 2.6 *supra*, Common Expenses shall include the following:

- a. Repair, replacement and upkeep of the Common Elements including, without limitation, all storm water drainage, landscaping, parking areas, driveways, sidewalks, stairways and breeze ways;
- b. Casualty and/or liability insurance on the Condominium Property and fidelity bonds for Association employees;
- c. Utility Services for the Condominium Property not attributable to individual Units;
- d. Any other expenses incurred in the normal operation and maintenance of the Condominium which cannot be attributed to a particular Owner.

8.2 Assessments. The collection of assessments against each Owner for Common Expenses, for the costs or expenses for which an individual Owner may be solely responsible pursuant to the terms of the Condominium Documents, and for reserves as may from time to time be established by the Association, shall be pursuant to the Bylaws of the Association subject to the following provisions:

- a. Interest: Application of Payments. Assessments and installments on such assessments paid on or before ten (10) days after the date when due shall not bear interest, but all

sums not paid on or before ten (10) days after the date when due shall be interest at the rate of 1.5% per month from the date when due until paid. A late charge equal to the greater of \$25.00 or 5% of the delinquent payment shall also be due on delinquent accounts. All payments on accounts shall first be applied to any interest that has accrued, then to any late charge, then any costs and reasonable attorney fees incurred in collection, and then to the assessment payment first due. The Board of Directors shall have the discretion to increase or decrease the amount of late charge and/or interest rate within the limits imposed by law; provided, however, that such increase or decrease shall be made effective by amending the Condominium Rules and Regulations and notifying the Owners of same by regular mail addressed to each Owner at this last known address.

b. Lien for Assessments. The Association shall have a lien against each Condominium Parcel for any unpaid assessments which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a certificate of title, which lien shall also secure any interest, and all reasonable attorneys' fees and costs incurred by the Association incident to the collection process, whether or not legal proceedings are initiated. The lien is effective from and after recording a claim of lien, executed and acknowledged by an officer or authorized agent of the Association, in the Office of the Judge of Probate of Lee County, Alabama, stating the legal description of the Condominium Parcel, the name of the Owner of record, the name and address of the Association, the amount claimed to be due and the due dates. The lien shall continue in effect until all sums secured by the lien shall have been fully paid or until such time as is otherwise permitted by law. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien, to be prepared by and recorded at such party's expense. All such liens shall be subordinate to any mortgage recorded prior to the date of recording the claim of lien, and all such liens may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property. The Association may also sue to recover a money judgment for unpaid assessments without thereby waiving any claim of lien. In the event a Mortgagee shall obtain title to a Condominium Parcel as a result of the foreclosure of its mortgage, or in the event such Mortgagee shall obtain title to a Condominium Parcel as a result of a conveyance in lieu of foreclosure of its mortgage, such Mortgagee shall be liable for the unpaid Common Expenses and assessments that became due prior to the Mortgagee's acquisition of title, except to the extent that such liability is limited by the Condominium Act. Nothing contained herein shall be construed as a modification of any rights or remedies of the Association pursuant to the Condominium Act, except to the extent that the Condominium Documents allow additional remedies to those expressly set forth in said statute and to the extent that such additional remedies are permitted by said statute.

c. Personal Liability for Unpaid Assessments. Each Owner of a Unit is personally liable for all assessments made against the Unit pursuant to this Declaration and the Condominium Act, and the Association may bring an action for a money judgment against a delinquent Owner to collect all sums due the Association, including interest, late charges, costs and reasonable attorney fees. In the event a Unit is owned by more than one person or entity, such owners shall be jointly and severally liable for all assessments made against the Unit.



d. Payments of Assessments. No Owner may withhold payment of any regular assessment or special assessment or any portion thereof because of any dispute which may exist between that Owner and the Association, the directors of the Association, the Management Company or the Declarant or among any of them but, rather, each Owner shall pay all assessments when due pending resolution of any dispute.

e. Notice of Delinquent Assessments. Any Mortgagee, upon written request to the Association (such request to state the name and address of such Mortgagee and the Unit number at issue), will be entitled to timely written notice of any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to the mortgage of Mortgagee where such delinquency has continued for a period of sixty (60) days.

8.3 Common Surplus. Each Owner shall own a share of the Common Surplus attributable to each Unit owned in accordance with Section 6.1.

8.4 Refunds of Common Surplus. If the Association shall refund all or a portion of any Common Surplus to the Owners for any fiscal year in which the Declarant paid any assessment, such refund shall be prorated as of the date of closing of any sale of a Unit upon which the sale was closed by Declarant during such year, and the prorated amount allocable to the period of time of the Declarant's ownership shall be refunded directly to the Declarant by the Association.

8.5 Certificate. Any Owner shall have the right to require from the Association a certificate showing the amount of unpaid assessments against him with respect to his Unit. The holder of a mortgage or other lien shall have the same right as to any Unit upon which it has a lien. Any person who relies upon such certificate shall be protected thereby.

## **ARTICLE IX THE ASSOCIATION**

The operation of the Condominium shall be by the Association, which shall fulfill its functions pursuant to the following provisions:

9.1 Membership in Association and Voting Rights. Membership of each Owner in the Association shall be acquired pursuant to the provisions of the Articles of Incorporation and Bylaws of the Association. Each Unit shall have one (1) vote in the Association. Where a Unit is owned by more than one owner, the co-tenants of the Unit shall file a voting certificate with the Association, in accordance with the Articles and Bylaws of the Association, setting forth which co-tenant is designated to cast the vote for that Unit.

9.2 Articles of Incorporation. A copy of the Articles of Incorporation of the Association, which set forth its powers and duties, are attached hereto as Exhibit "B".

9.3 Bylaws. A copy of the Bylaws of the Association are attached hereto as Exhibit "C" and are incorporated herein by reference.

9.4 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair portions of the Condominium Property, the Association shall not be liable to Owners for injury or damage other than for the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association or caused by the elements or other Owners or persons.

9.5 Transfer of Control of Association.

a. Owners of Units other than the Declarant will be entitled to elect members of the Board of Directors of the Association as follows:

(1) The Owners of Units other than the Declarant shall be entitled to elect a majority of the members of the Board of Directors not later than the earliest of (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units which may be created to Unit Owners other than the Declarant; or (ii) two years after Declarant has ceased to offer Units for sale in the ordinary course of business. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of that period. , but in that event Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

(2) Not later than ninety (90) days after conveyance of twenty-five percent (25%) of the Units which may be created to Unit Owners other than the Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Board of Directors must be elected by Unit Owners other than the Declarant. Not later than ninety (90) days after conveyance of fifty percent (50%) of the Units which may be created to Unit Owners other than Declarant, not less than one-third (1/3) of the members of the Board of Directors must be elected by Unit Owners other than the Declarant.

(3) Nothing in this subparagraph shall be construed so as to preclude the Declarant from relinquishing control of the Board of Directors at any time the Declarant may elect.

b. The Declarant is entitled to elect at least one member of the Board of Directors of the Association for so long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Units in the Condominium.

c. Following the time the Declarant relinquishes control of the Association, the Declarant may exercise the right to vote any Declarant-owned Units in the same manner as any other Owner.

9.6 Availability of Documentation. The Association shall be required to make available to Owners, any Mortgagee and the holders and insurers of the first mortgage on any Unit, current copies of this Declaration, the Articles and Bylaws of the Association and other rules governing this Condominium and other books, records and financial statements of the Association. The Association also shall make available to prospective purchasers current copies of this Declaration, the Association Articles and Bylaws, other rules governing the Condominium and the most recent annual audited financial statement, if such is prepared. "Available" shall at least mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

## **ARTICLE X** **INSURANCE**

The insurance other than title insurance, if any, that shall be carried upon the Condominium Property shall be governed by the following provisions:

10.1 Insurance Maintained by the Association. All insurance policies upon the Condominium Property shall be purchased by the Association from a fiscally responsible company authorized to do business in the State of Alabama and shall have a minimum term of one year. The named insured shall be the Association, individually and as agent for the Owners, without naming them, and as agent for their Mortgagees. Such policies shall provide that payments by the insurer for losses shall be made to the Association or the Insurance Trustee designated below, and all policies and their endorsements shall be deposited with the Association or the Insurance Trustee. Such policies shall also include a "condominium endorsement" which shall provide for recognition in any insurance trust agreement, waiver of the right of subrogation against Owners individually, that the insurance is not prejudiced by the act or neglect of individual Owners which is not in the control of such Owners collectively and that the policy is primary in the event the Owners have other insurance covering the same loss.

10.2 Insurance Responsibility of Owners. Each Owner shall be responsible for maintaining, at the Owners expense, insurance coverage for loss or damage to the Improvements constructed on the Unit and all furnishings and personal property stored on the Unit, as well as insurance coverage against personal liability for injury to the person or property of another while on the Owner's Unit.

### 10.3 Coverage.

a. Casualty. All buildings and improvements upon the Condominium Property shall be insured in an amount equal to 100% of the current replacement cost, exclusive of land, foundation and excavation costs, and all other items normally excluded from coverage, and all personal property owned by the Association shall be insured for its current replacement cost, all as shall be determined from time to time by the Board of Directors of the Association. Coverage shall afford protection against:

(1) Loss or damage by fire and other hazards normally covered by a standard extended coverage endorsement;

(2) Such other risks as from time to time shall be customarily covered with respect to building similar in construction, location and use as the buildings on the Condominium Property, including floods and other perils normally covered by the standard "all risk" endorsement where such is available; including, without limitation, vandalism and malicious mischief.

b. Public Liability. Public liability insurance shall be carried in such amounts and with such coverage as shall be required by the Board of Directors of the Association from time to time; provided, however, that such coverage shall in no event be in an amount less than One Million Dollars (\$1,000,000.00) per occurrence. Wherever and whenever it is possible and economically feasible to do so, the Board of Directors shall attempt to obtain adequate insurance protection in reasonably prudent coverages. Except as required herein, nothing in this Declaration shall be construed to require the Board of Directors to obtain such coverage as a condition precedent to the Association conducting business.

c. Worker's Compensation. Worker's compensation insurance shall be carried to the extent necessary to meet the requirements of law.

d. Fidelity Bond. Fidelity insurance coverage shall be carried in the name of the Association for all officers, directors and employees of the Association and all other persons handling or responsible for funds of the Association. The fidelity bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The fidelity bonds shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days' prior written notice to the Association.

e. Other Insurance. Such other insurance may be carried as the Board of Directors shall determine from time to time to be desirable.

10.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

10.5 Proceeds. All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association hereinabove set forth shall be paid to it. The Association shall act as the insurance trustee. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees, except that no mortgagee shall have any right to determine or participate in the determination whether or not damaged property shall be reconstructed or repaired except as may be specifically provided to the contrary herein.

10.6 Association as Agent and Attorney-in-Fact. The Association is hereby irrevocably appointed agent and attorney-in-fact for each Owner to adjust all claims arising under the insurance policies purchased by the Association and to execute and deliver releases upon the payment of the claim.

10.7 Notice to Owners and Mortgagees. No insurance policy required by this Declaration may be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and each Mortgagee holding a first mortgage and which is listed as a scheduled holder of a first mortgage in the policies. Certificates of insurance shall be issued to each Owner and Mortgagee upon written request therefor.

## **ARTICLE XI**

### **RECONSTRUCTION OR REPAIR AFTER CASUALTY**

11.1 Obligation to Reconstruct or Repair. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired, shall be determined in the following manner:

a. Common Elements. If the damaged improvement is a Common Element then the damaged property shall be reconstructed or repaired unless it is determined that the Condominium shall be terminated because of damage to Units as set forth in Article 11.1(b).

b. Units.

(1) Minor Damage. If the damage is to Units and if less than fifty percent (50%) of the Units are found by the Board of Directors of the Association to be untenable, the damaged property shall be reconstructed or repaired.

(2) Major Damage. If the damage is to Units and if fifty percent (50%) or more of the Units are found by the Board of Directors of the Association to be untenable, then the damaged property will be reconstructed or repaired unless within sixty (60) days after the casualty, the holders of ninety percent (90%) of all votes of the Association agree in writing to not reconstruct or repair and to terminate the Condominium. Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Condominium Property must have the prior approval of the Mortgagees holding first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Mortgagees are allocated.

11.2 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the damaged property as originally constituted

or, in lieu thereof, according to the plans and specifications approved by the Board of Directors of the Association.

11.3 Eminent Domain. The Association is hereby empowered to defend and/or settle any action or threatened action with respect to the taking in condemnation of any portion of the Common Elements of any Unit or portion of any Unit. Upon obtaining knowledge of such action or threatened action, the Association shall notify all affected Mortgagees of record of same.

a. Common Elements. Any award or settlement made as result of such a taking of all or a portion of the Common Elements shall be made payable to the Association. Any such award or settlement shall be held in trust by the Association for the benefit of the Owners and Mortgagees holding a first mortgage as their interest may appear. In the event any repair or restoration of the Common Elements is necessary in the opinion of a majority of the Board of Directors of the Association on account of such taking, or in the event a majority of the voting interests at a duly called and constituted meeting of the Association promptly approve such restoration or repair, the Board of Directors shall arrange for same and shall disburse such of the proceeds of such award or settlement as shall reasonably be necessary to effect such restoration or repair to the contractors engaged for such purpose in appropriate progress payments. The balance of such proceeds, or all of such proceeds if no determination to repair or restore is made, shall be disbursed by the Association in the same manner as insurance proceeds under Section 10.6 hereof where there is no repair or restoration of damage.

b. Units. Any award or settlement for the taking in condemnation of a Unit shall be made payable to the Owner(s) of such Unit.

## **ARTICLE XII**

### **USE RESTRICTIONS**

The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists:

12.1 Subdivision of Units. No Unit may be divided or subdivided into a smaller Unit.

12.2 Common Elements. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the personal use of the Owners, their guests and lessees and other authorized occupants of Units.

12.3 Nuisance. No nuisance shall be allowed upon the Condominium Property or within a Unit, nor any use or practice that is the source of annoyance to Owners or which interferes with the peaceful possession and proper use of the Condominium Property by the Owners. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard allowed to exist. No Owner shall permit

any use of a Unit or make or permit any use of the Common Elements that will increase the cost of insurance upon the Condominium Property.

12.4 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or a Unit, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the Condominium Property or a Unit shall be the same as the responsibility for the maintenance and repair of the property concerned.

12.5 Signs/Flags: No signs or advertising devices of any kind shall be maintained or permitted on any portion of the Unit, Private Element, Limited Common Element or Common Element, except one "For Sale" sign and/or one "For Rent" in the window of the Unit. The Association may grant express written approval of other types of signs upon such conditions as may from time to time be determined in the sole discretion of the Board of Directors.

12.6 Bicycles and Motorcycles. Bicycles and motorcycles shall not be stored on the Condominium Property, except in such areas designated for this purpose.

12.7 Condominium Rules and Regulations. Reasonable rules and regulations concerning the use of Condominium Property may be promulgated and amended from time to time by the Board of Directors of the Association in the manner provided by its Articles of Incorporation and Bylaws. A copy of the present Condominium Rules and Regulations is attached hereto as Exhibit "F".

12.8 Declarant's Use. The Declarant, its agents or an entity affiliated with the Declarant may make such use of the Common Elements and the Units as may facilitate the sale or rental of Units, including, without limitation, showing of the property, maintaining a sales office within a Unit, maintaining a model Unit, and the display of signs and other promotional devices.

12.9 Antennas and Satellite Dishes. No antenna, satellite dish or other communication device of any type designed to service a Unit shall be allowed on the Common Elements except as may be provided by the Association to serve as a master antenna or satellite for the benefit and use of the Condominium.

12.10 Pets. Each Unit Owner shall have the right to keep no more than one (1) animal of a type generally recognized as household pets; provided that no animal shall exceed twenty-five (25) pounds in weight, unless the owner receives written authorization from the Association or the management agent engaged by the Association to keep a particular pet that exceeds said weight limit.

12.11 Window Treatments. No Unit Owner may use foil, sheets, or other unsightly materials to cover the windows, and no Unit Owner may display neon or other flashing signs in the windows.

**ARTICLE XIII**  
**ALIENABILITY OF UNITS**

13.1. No Alienability Restrictions. The right of an Owner to sell, transfer, assign or hypothecate his Unit shall not be subject to the approval of the Association. Accordingly, a proper transfer or conveyance of such Unit shall not require the written approval of the Association. Transfer or conveyance of a Unit may be subject to a current lease thereof.

13.2 Leasing and Rental. Owners may lease all or any portion of their Unit; provided that the Association or the management agent engaged by the Association is notified prior to rental or occupancy of any Unit; such notice must identify who will be occupying the Unit and the duration of such occupancy. All occupants of the Unit must comply with the terms of the Condominium Documents and the Condominium Rules and Regulations.

**ARTICLE XIV**  
**COMPLIANCE AND DEFAULT**

14.1 Compliance and Default. Each Owner shall be governed by and shall comply with the terms of the Condominium Documents and the Condominium Rules and Regulations adopted pursuant to those documents and as they may be amended from time to time. Failure of an Owner to comply with the provisions of such documents and regulations shall entitle the Association or other Owners to pursue any and all legal and equitable remedies for the enforcement of such provisions, including, but not limited to, an action for damages, an action for injunctive relief or an action for declaratory judgment. Failure of the Association to comply with the provisions of the Condominium Documents and the Condominium Rules and Regulations adopted pursuant to those documents as they may be amended from time to time shall entitle the Owners to pursue any and all legal and equitable remedies for the enforcement of such provisions, including, but not limited to, an action for damages, an action for injunctive relief or an action for declaratory judgment. All provisions of this Declaration shall be enforceable equitable servitudes and shall run with the land and shall be effective until the Condominium is terminated.

14.2 Costs and Attorney's Fees. In any proceeding arising because of an alleged failure of an Owner or the Association to comply with the terms of the Condominium Documents or the Condominium Rules and Regulations adopted pursuant to them as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and recover such reasonable attorney fees incurred therein, including all appeals and all proceedings in bankruptcy.

14.3 No Waiver of Rights. The failure of the Association or any Owner to enforce any covenant, restriction or other provision of the Condominium Act, the Condominium Documents or the Condominium Rules and Regulations shall not constitute a waiver of the right to do so thereafter.



14.4 Injunctive Relief. The Association may seek an injunction from a court of equity to compel compliance or prohibit violation of the Condominium Documents regardless of whether an otherwise adequate remedy at law exists.

14.5 Governing Law: Waiver of Jury Trial: Venue of Actions. This Declaration shall be governed by, and shall be construed in accordance with, the laws of the State of Alabama, as the same may exist on the date of recording hereof. The Association, an Owner or Owners, the Declarant, the Management Company and any other party claiming rights or obligations by, through or under this Declaration, each hereby waive any right they may have under any applicable law to a trial by jury with respect to any suit or legal action which may be commenced by or against the others concerning the interpretation, construction, validity, enforcement or performance of this Declaration or any other agreement or instrument executed in connection with this Declaration. In the event any such suit or legal action is commenced by any party, the other parties hereby agree, consent and submit to the personal jurisdiction of the circuit court for the county in which the Condominium is situated, with respect to such suit or legal action, and each party also hereby consents and submits to and agrees that venue in any such suit or legal action is proper in said court and county, and each party hereby waives any and all personal rights under applicable law or in equity to object to the subject matter or personal jurisdiction and venue in said court and county. Such jurisdiction and venue shall be exclusive of any other jurisdiction and venue.

## ARTICLE XV AMENDMENTS

15.1 By Owners. Except as otherwise provided herein, this Declaration may be amended in the following manner:

a. Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered.

b. Adoption. A resolution amending the Declaration shall be adopted in the following manner:

(1) Board of Directors. Until the first election of a majority of the directors of the Association by Owners other than the Declarant, proposal of any amendment and approval thereof shall require only the affirmative action of two-thirds (2/3) of the entire membership of the Board of Directors of the Association, and no meeting of the Owners nor any approval thereof need be had. However, no amendment may, unless specifically approved as provided in Section 15.1(b)(2) or below:

(a) materially alter or modify the appurtenances to the Unit, including voting rights, rights to use Common Elements, interests in Common Elements or the leasing of Units;

(b) materially amend any provision regulating assessments, assessment liens or subordination of liens;

(c) materially amend any provision regarding the responsibility for maintenance and repair of the Condominium;

(d) change the proportion or percentage by which an Owner shares the Common Expenses and owns the Common Surplus.

(2) Board of Directors and Owners. In addition to the procedure set forth above and after the first election of a majority of the directors of the Association by Owners other than the Declarant, a resolution for the adoption of a proposed amendment may be proposed by the Board of Directors of the Association or by the Owners. Owners may propose such an amendment by instrument in writing directed to the president or secretary of the Board signed by not less than holders of thirty-three percent (33%) of all of the votes of the Association. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided, the president or, in the event of his refusal or failure to act, the Board of Directors, shall call a meeting of the Owners to be held not sooner than fifteen (15) days nor later than sixty (60) days thereafter for the purpose of considering said amendment. Directors and Owners not present at the meeting considering the amendment may express their approval in writing, provided such approval is delivered by the secretary at or prior to the meeting. Except as provided herein, such approvals must be by:

(a) not less than sixty-seven percent (67%) of the entire membership of the Board of Directors and not less than sixty-seven percent (67%) of the votes of the Association; or

(b) an agreement signed and acknowledged by all Owners in the manner required for the execution of a deed; and

(3) Any amendment which would have a material adverse effect on Mortgagees must have the prior written consent of Mortgagees holding a first mortgage on Units to which at least fifty-one percent (51%) of the votes of the Association appertain and the prior written consent of Owners representing not less than sixty-seven percent (67%) of all of the votes of the Association.

c. Execution and Recording. Each amendment shall be attached to or shall contain a certificate certifying that the amendment was duly adopted, and the certificate shall be executed by the president of the Association and attested by the secretary with the formalities of a deed, and said amendment shall be effective upon recordation of the amendment and certificate in the Office of the Judge of Probate of Lee County, Alabama.

15.2 By the Declarant. The Declarant reserves the right at any time, so long as it owns any of the Units in the Condominium, to unilaterally amend this Declaration as it may deem appropriate, in its sole discretion, to carry out the purposes of the project, or as may be required by any lending institution, FHA, VA, FHLMC, FNMA, title insurance company or public body or as may be necessary to conform the same to the requirements of law or to facilitate the operation and management of the Condominium or the sale of Units in an FHA/VA approved condominium. Any amendments to this Declaration which may be unilaterally made by the Declarant shall become effective upon the recording in the Office of the Judge of Probate of Lee County, Alabama, of an instrument executed solely by the Declarant, setting for the text of such amendment in full, together with the appropriate recording data of this Declaration.

15.3 Notice to Mortgagees. Any Mortgagee, upon written request to the Association (such request to state the name and address of such Mortgagee and the Unit number at issue), will be entitled to timely written notice of any proposed amendment to this Declaration affecting a change in the boundaries of any Unit or the exclusive easement rights appertaining thereto, the interest in the Common Elements appertaining to any Unit or the liability for Common Expenses appertaining thereto, the number of votes in the Association appertaining to any Unit or the purposes to which any Unit or the purposes to which any Unit or the Common Elements are restricted.

## **ARTICLE XVI** **TERMINATION**

The Condominium may be terminated in the following manners, in addition to the manner provided by the Condominium Act:

16.1. Agreement. The Condominium may be terminated at any time by the approval in writing of all Owners and all Mortgagees of record. Notice of a meeting at which the proposed termination is to be considered shall be given not less than thirty (30) days prior to the date of such meeting.

16.2. Termination Through Condemnation. The Condominium shall only be terminated by virtue of a condemnation action if all Condominium Property is taken in condemnation. If less than all of the Condominium Property is taken in condemnation, the Condominium shall continue as to those portions of the Condominium Property not so taken.

16.3. Certificate. Termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and secretary certifying to the facts effecting the termination, said certificate to become effective upon being recorded in the Office of the Judge of Probate of Lee County, Alabama.

16.4 Shares of Owners after Termination. After termination of the Condominium, each Owner shall own an undivided share of the Condominium Property and all assets of the

Association as a tenant in common in accordance with their share of the undivided percentage interest in the Common Elements, set forth Exhibit "D".

16.5 Notice to Mortgagees. Any Mortgagee, upon written request to the Association (such request to state the name and address of such Mortgagee and the Unit number at issue), will be entitled to timely written notice of any proposed termination of the Condominium.

## **ARTICLE XVII MERGER**

This Declaration, the Association and the Common Elements of the Condominium described herein may be merged with the declaration of condominium, condominium association and common elements of another independent and separate condominium to form a single condominium with the consent of sixty-six and two-thirds percent (66-2/3%) of the total number of voting interests and with the approval of all of the record owners of liens on the Units. In the event such consent and approval is obtained, a new or amended declaration of condominium, articles of incorporation and bylaws of the Association shall be recorded and shall contain such provisions as are necessary to amend and modify the appurtenances to the Units and percentages by which the Owners of Units share the Common Expenses and own the Common Surplus and Common Elements in order to create a consolidated single condominium.

## **ARTICLE XVIII SEVERABILITY**

The invalidity in whole or in part of any covenant or restriction, or any article, section, subsection; sentence, clause, phrase or word, or other provision of the Condominium Documents and the Condominium Rules and Regulations shall not affect the validity of the remaining portions.

## **ARTICLE XIX SERVICE OF PROCESS**

The name of the person designated to receive process in any action which may be instituted in relation to this Condominium or any parts thereof, together with said persons place of business is Thomas H. Cooksey, Sr., 2177 Moore's Mill Road, Auburn, Alabama 36830. The registered agent and address may be changed as set forth in the Articles of Incorporation and Bylaws or otherwise provided by Alabama law.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Condominium  
this \_\_\_ day of \_\_\_\_\_, 2007.

**BURTON PLACE AT MIDTOWN,LLC,  
An Alabama limited liability company**

By: \_\_\_\_\_  
Thomas H. Cooksey, Sr., its Member

By: \_\_\_\_\_  
Thomas H. Cooksey, Jr., its Member

By: \_\_\_\_\_  
Jim W. Cleveland, III, its Member

By: \_\_\_\_\_  
William A. Cleveland, its Member

STATE OF ALABAMA  
LEE COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Thomas H. Cooksey, Sr., Thomas H. Cooksey, Jr., Jim W. Cleveland, III and William A. Cleveland, whose names as Members of Burton Place at Midtown, LLC, an Alabama limited liability company, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such Members, executed the same voluntarily for and as act of said limited liability company.

Given under my hand this the \_\_\_ day of October, 2007.

(NOTARY SEAL)

\_\_\_\_\_  
Notary Public, State at Large

My commission expires

Prepared by:  
William A. Cleveland, Esq.  
HAYGOOD, CLEVELAND, PIERCE, MATTSON & THOMPSON, L.L.P.  
611 East Glenn Avenue  
Post Office Box 3310  
Auburn, Alabama 36831-3310  
(334) 821-3892

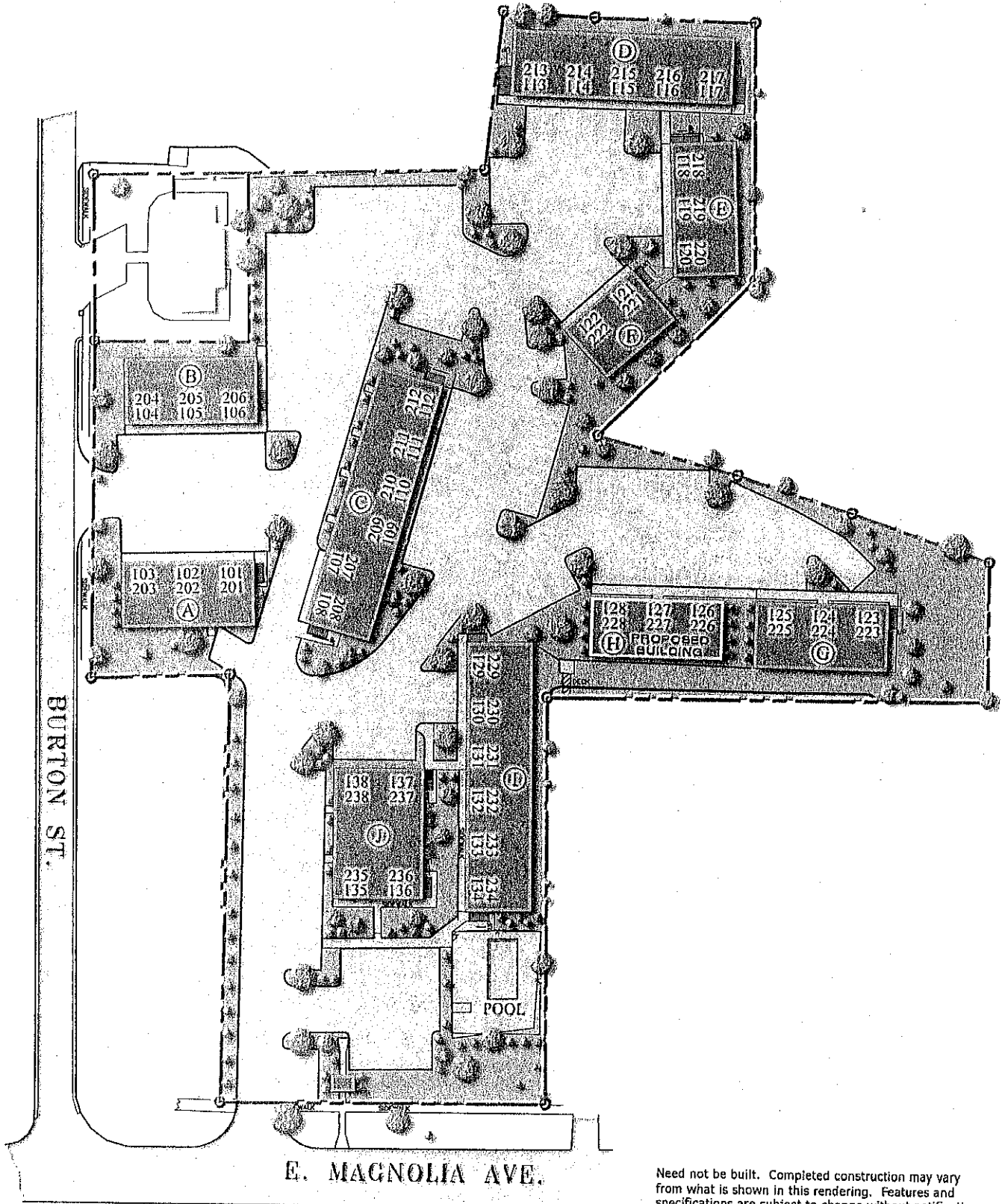
**Exhibit "A" to Declaration  
Legal Description**

Commence at a one-half inch rebar and Cap No. 12933 located at the intersection of the East right of way of Burton Street and the North right of way of East Magnolia Avenue; thence South 89 degrees 30 minutes 25 seconds East along the North right of way of East Magnolia Avenue, 70.10 feet to a one inch pinched top pipe and the point of beginning of the parcel of land herein described; thence leaving said right of way, North 00 degrees 29 minutes 00 seconds East, 230.26 feet to a one inch pinched top pipe; thence South 88 degrees 07 minutes 24 seconds West, 76.03 feet to a one inch open top pipe located on the East right of way of Burton Street; thence along said right of way, North 00 degrees 22 minutes 43 seconds West, 183.51 feet to a one inch solid iron rod; thence North 01 degree 15 minutes 52 seconds West, 91.00 feet to a three-quarter inch open top pipe; thence leaving said right of way, North 88 degrees 40 minutes 13 seconds East, 214.28 feet to a one-half inch rebar; thence North 05 degrees 42 minutes 14 seconds East, 86.52 feet to a one and one-quarter inch pinched top pipe; thence South 86 degrees 44 minutes 48 seconds East, 50.30 feet to a one inch open top pipe; thence South 88 degrees 46 minutes 58 seconds East, 87.50 feet to a one inch open top pipe; thence South 01 degree 02 minutes 50 seconds East, 140.38 feet to a one inch open top pipe; thence South 44 degrees 29 minutes 55 seconds West, 120.14 feet to a one and one-quarter inch open top pipe; thence South 74 degrees 57 minutes 41 seconds East, 79.18 feet to a one inch open top pipe; thence South 72 degrees 22 minutes 15 seconds East, 66.03 feet to a one inch rebar and Cap No. 16684; thence South 70 degrees 49 minutes 09 seconds East, 80.57 feet to a one and one-quarter inch open top pipe; thence South 00 degrees 15 minutes 54 seconds East, 75.91 feet to a one and one-half inch open top pipe; thence North 89 degrees 53 minutes 45 seconds West, 241.40 feet to a one and one-quarter inch open top pipe; thence South 00 degrees 31 minutes 05 seconds East, 218.92 feet to a one-half inch open top pipe located on the North right of way of East Magnolia Avenue; thence South 89 degrees 37 minutes 47 seconds West, 178.04 feet to the point of beginning. Located in Section 30, Township 19 North, Range 26 East, Auburn, Lee County, Alabama, and being Lot 2, Part of Lot 10, Lot 11 and Lot 12, Block 145 of the Chambers Map of Auburn, Alabama

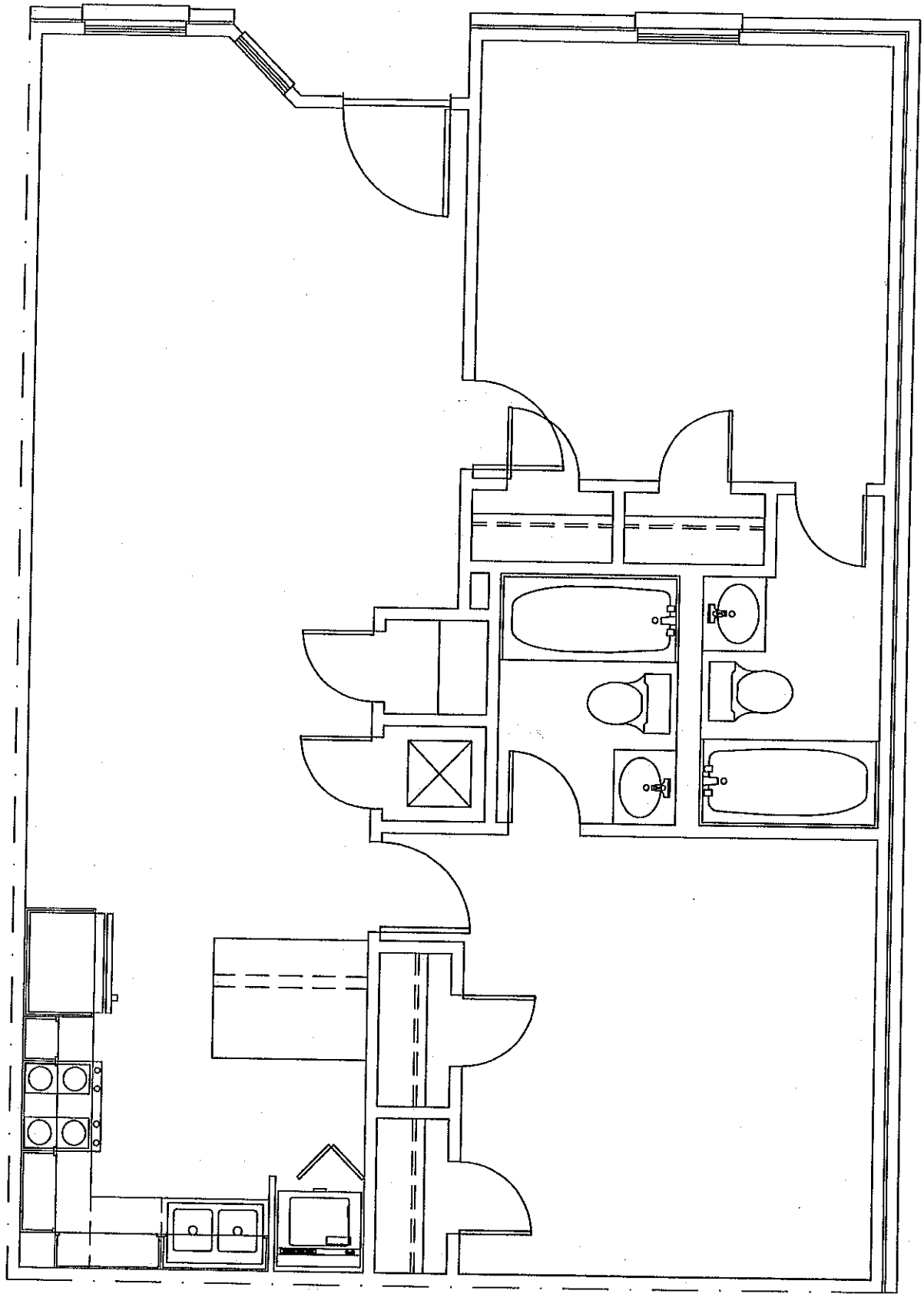
# BURTON PLACE AT MIDTOWN

315 E. MAGNOLIA AVENUE

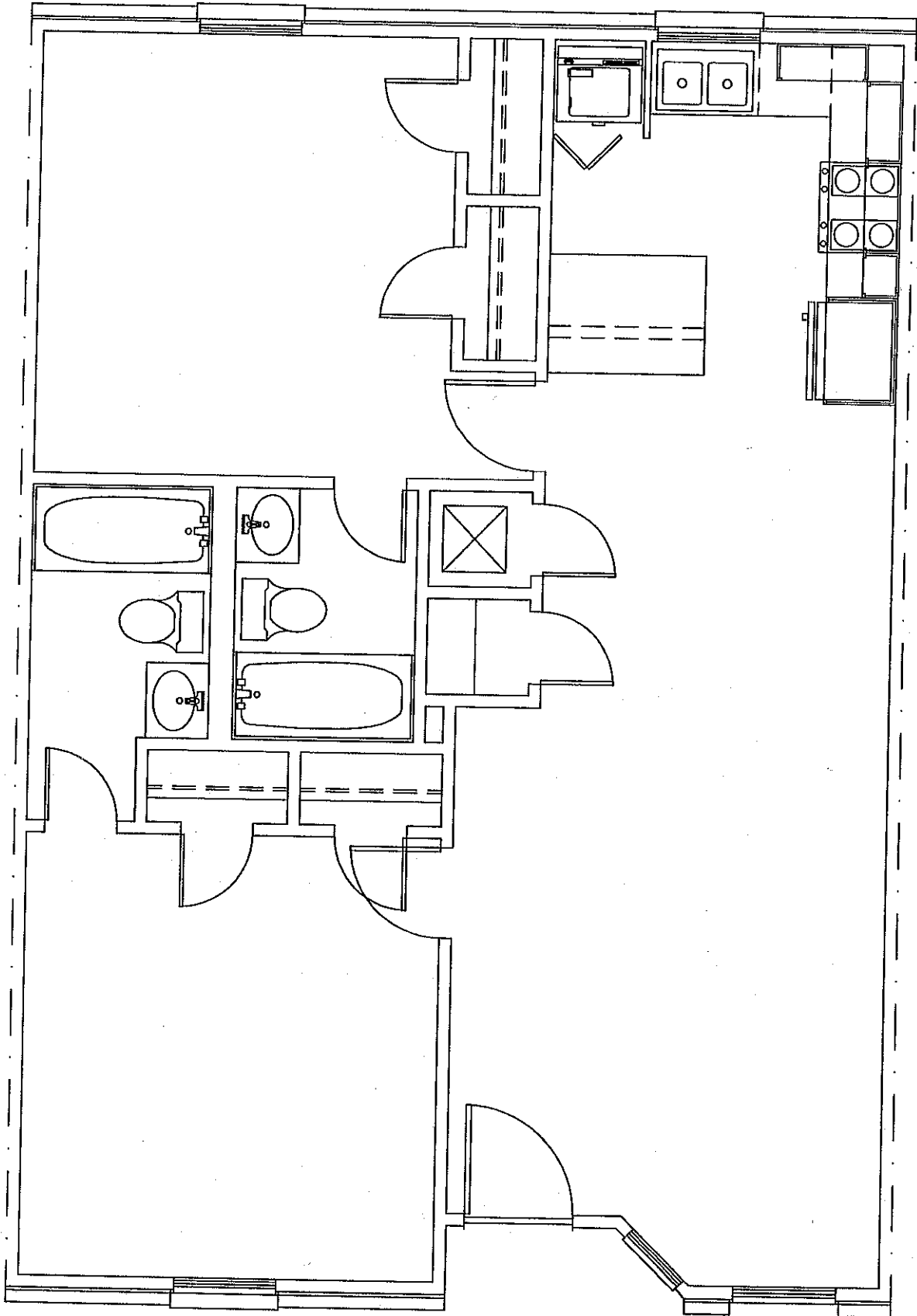
AUBURN, ALABAMA



Need not be built. Completed construction may vary from what is shown in this rendering. Features and specifications are subject to change without notification.







**Exhibit "B" to Declaration  
Association Articles of Incorporation**

See attached.

**ARTICLES OF INCORPORATION  
OF  
BURTON PLACE AT MIDTOWN CONDOMINIUM ASSOCIATION, INC.  
(An Alabama Non-Profit Corporation)**

The undersigned, for the purpose of forming a corporation pursuant to the provisions of the Alabama Nonprofit Corporation Act (Code of Alabama (1975), Sections 10-3A-1, *et seq.*) hereby adopt the following Articles of Incorporation and certify as follows:

1. **NAME.** The name of the corporation is "Burton Place at Midtown Condominium Association, Inc." (hereinafter referred to as the "Association").

2. **DURATION.** The period of duration of the Association shall be perpetual.

3. **PURPOSES.** The purposes for which the Association is organized are:

(a) To own, operate, maintain, manage, repair, and replace Common Elements of Burton Place at Midtown Condominium and all appurtenances thereto, which is situated in the Lee County, State of Alabama and described as follows:

**See Exhibit "A", attached hereto and incorporated herein by reference as if fully set forth.**

all of the foregoing being hereinafter referred to as "Burton Place" or the "Property".

(b) To perform and carry out the acts, duties, responsibilities, and conditions delegated to the Association in the Declaration under Alabama Uniform Condominium Act, these Articles of Incorporation, the Bylaws of this Association and all amendments thereto, and all the powers enumerated in Section 35-8A-302 Code of Alabama (1975).

(c) To make, establish and enforce reasonable rules and regulations governing the administration, operation, and management of the Property.

(d) To make, levy, collect, and enforce assessments, as defined in the Declaration, and to use and expend such assessments in the manner set forth in the Declaration.

(e) To employ personnel and contract for services, material, and labor, including contracting for the management of the Common Areas.

(f) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates, and with such deductibles as may be necessary for the protection of the Association, its officers, directors, and members.

(g) to sue and be sued, complain and defend in its corporate name.

(h) To enter into, make and perform contracts of every kind for any lawful purpose, without limit as to the amount, with any person, firm, association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision or body politic.

(i) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporated under the Alabama Nonprofit Corporation Act, as amended, and to have and exercise all powers necessary or convenient to effect the purposes of the Association in accordance with and subject to the terms and provisions of the Declaration.

4. **INITIAL REGISTERED OFFICE AND AGENT.** The location and mailing address of the initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Thomas H. Cooksey, Sr.  
2177 Moore's Mill Road  
Auburn, AL 36831

5. **NONSTOCK AND NONPROFIT STATUS.** The Association shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the members thereof. No part of the earnings of the Association shall inure to the benefit of any member, individual, officer, or director. The Association does not contemplate the distribution of gains, profits, or dividends to the members thereof and is organized solely for nonprofit purposes.

6. **MEMBERS.** The members of the Association shall consist of all Owners of Units in Burton Place. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a Unit. The voting rights of any member may be limited and suspended in accordance with the provisions of the Declaration.

7. **DIRECTORS.**

(a) **Number of Directors.** Subject to the terms of the Declaration, which shall be deemed controlling in the event of any conflict with these Articles, the affairs of the Association shall be managed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). Thereafter, the number of Directors may be increased or decreased from time to time by action of a majority of the Board of Directors; provided, however, that (i) the number of Directors shall in no event consist of less than three (3) Directors and (ii) no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director. The names and addresses of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Paragraph 7(b) of these Articles are as follows:

Thomas H. Cooksey, Sr.  
2177 Moore's Mill Road  
Auburn, AL 36830

Thomas H. Cooksey, Jr.  
979 Park Lane Road  
Auburn, AL 36830

Jim W. Cleveland, III  
1755 Fairway Drive, Unit E  
Auburn, AL 36830

William A. Cleveland  
1934 Fairway Drive  
Auburn, AL 36830

(b) **Removal.** The members of the Association shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director. Any vacancies which may thereafter arise on the Board shall be filled as provided in the Bylaws.

(c) **Powers.** Except as may be otherwise provided to the contrary in the Declaration, these Articles of Incorporation or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the Association shall be managed under the direction of, the Board of Directors. The Board of Directors shall by majority action appoint and remove the Officers of the Association.

(d) **Conflicts of Interest.** No contract or other transaction between the Association and one or more of its Directors or any other corporation, firm, association, or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association, or entity of which any Director of the Association is a director or officer or is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided that such relationship or interest in such contract or transaction shall be disclosed or known to the Board of Directors at a meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction and, if such fact shall be disclosed or known, any director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any Director of the Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

8. **INCORPORATOR.** The names and addresses of the incorporators are as follows:

Burton Place at Midton, LLC  
P.O. Box 1437  
Auburn, AL 36831

9. **DISTRIBUTION OF ASSETS UPON DISSOLUTION.**

(a) Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

(i) Real property contributed to the Association without the receipt of other than nominal consideration by Burton Place at Midtown, LLC shall be returned to Burton Place at Midtown, LLC unless it refuses to accept the conveyance (in whole or in part);

and

(ii) Unless otherwise agreed to the contrary in the plan of distribution, all remaining assets shall be distributed among the members of the Association, as tenants in common, with each member's share of the assets to be determined in accordance with its voting rights.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Act.

**10. POWER OF PRESIDENT AND VICE PRESIDENT TO EXECUTE DOCUMENTS.**

The President and each Vice President of the Association shall each have the authority to execute all instruments, documents and contracts on behalf of the Association.

**11. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS.**

(a) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that he is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not

opposed to the best interests of the Association; provided, however, that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for willful, deliberate, or wanton misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a Director, officer, employee, or agent of the Association has been successful on the merits or otherwise in the defense of any action, suit, or proceeding referred to in Paragraphs 11(a) and (b) above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue or matter in any such action, suit or proceeding.

(d) Any indemnification under Paragraphs 11 (a) and (b) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Paragraphs 11(a) and (b) above. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to or who have been wholly successful on the merits or otherwise with respect to such claim, action, suit, or proceeding, (ii) if such quorum is not obtainable, or, even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion or (iii) by a majority vote of the members of the Association.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit, or proceeding may be paid by the Association in advance of the final disposition of such claim, action, suit, or proceeding as authorized in the manner provided in Paragraph 11(d) above upon receipt of an undertaking by or on behalf of the Director, officer, employee or agent to repay such amount if and to the extent that it shall ultimately determine that he is not entitled to be indemnified by the Association as authorized in this Paragraph 11.

(f) The indemnification authorized by this Paragraph 11 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under any statute, rule of law, provisions of these Articles of Incorporation, Bylaw, agreement, vote of members or disinterested Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

(g) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Paragraph 11.

12. **AMENDMENT.** These Articles may be amended, subject to the terms and conditions of the Declaration, by the affirmative vote of at least two-thirds (2/3) of the total votes in the Association (i.e., two-thirds (2/3) of all Owners).

13. **INCORPORATION BY REFERENCE.** All of the terms, provisions, definitions, covenants and conditions set forth in the Declaration are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants, and conditions set forth herein and the Declaration, then the provisions of the Declaration shall at all times control.

IN WITNESS WHEREOF, the undersigned Incorporators have hereunto subscribed their names to these Articles of Incorporation as of this the \_\_\_\_\_ day of October, 2007.

**BURTON PLACE AT MIDTOWN, LLC**

By: \_\_\_\_\_  
Thomas H. Cooksey, Sr., its Member

By: \_\_\_\_\_  
Thomas H. Cooksey, Jr., its Member

By: \_\_\_\_\_  
Jim W. Cleveland, III, its Member

By: \_\_\_\_\_  
William A. Cleveland, its Member



STATE OF ALABAMA

LEE COUNTY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Thomas H. Cooksey, Sr., Thomas H. Cooksey, Jr., Jim W. Cleveland, III and William A. Cleveland, whose names as Members of Burton Place at Midtown, LLC, an Alabama limited liability company, are signed to the foregoing Articles of Incorporation and who are known to me, acknowledged before me on this day that, being informed of the contents of the Articles of Incorporation, they, as such Members and with full authority, executed the same voluntarily for and as act of said limited liability company.

Given under my hand this the \_\_\_\_ day of October, 2007.

(NOTARY SEAL)

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Notary Public, State at Large  
My commission expires

Prepared by:  
William A. Cleveland, Esq.  
HAYGOOD, CLEVELAND, PIERCE, MATTSO & THOMPSON, L.L.P.  
611 East Glenn Avenue  
Post Office Box 3310  
Auburn, Alabama 36831-3310  
(334) 821-3892

**Exhibit "C" to Declaration  
Association Bylaws**

See attached.

**BY-LAWS**  
**OF**  
**BURTON PLACE AT MIDTOWN CONDOMINIUM ASSOCIATION, INC.**

The operation of the Condominium Property of the Condominium described and named in the Declaration to which these By-Laws are attached shall be governed by these By-Laws.

**ARTICLE I: ASSOCIATION MEMBERS: MEETINGS**

**Section 1. *Member and Voting Rights.*** Each Unit Owner shall be a member of Burton Place Condominium Association, Inc. (hereinafter the "Association"). The membership of the Association shall consist of all of the Unit Owners. Each Unit Owner shall be entitled to one vote for each Unit owned by him.

**Section 2. *Transfer of Membership.*** The Association shall not issue stock. Membership in the Association may be transferred only as an incident to the transfer of title to a Unit as and in the manner provided for by the Declaration and these By-Laws, and, upon compliance with all of the terms thereof, shall become effective, if in accordance with the foregoing, upon the recording of a deed of conveyance to the said Unit.

**Section 3. *Annual Meeting of Members.*** The annual meeting of the Unit Owners shall be held on the first Monday in the same month each year beginning on the first Monday in the sixth month following the first sale of a Unit, or at such other date as may be specified by a majority of the Board of Directors, at such location on the Condominium Property as the President or a majority of the Board of Directors shall specify in writing to the Unit Owners, or at such other place in Lee County, Alabama, as the President or a majority of the Board of Directors shall designate.

**Section 4. *Special Meetings of Members.*** A special meeting of the Unit Owners may be called at any time by the President or by a majority of the Board of Directors, and shall be held at such place as is designated by the President or a majority of the Board of Directors and stated in a written notice. No special meeting shall be called unless the Secretary of the Association shall have mailed to or served upon all of the Owners written notice of the said meeting at least ten (10) days prior to the date of said meeting. A special meeting shall also be called by the President upon written demand of a majority of the Unit Owners, and in the event such demand is made, then and in that event, the President shall direct the Secretary to mail to or serve upon all of the Unit Owners written notice of the said meeting at least ten (10) days prior to the date of the meeting. All notices shall be mailed to or served at the address of the Unit Owner as it appears on the books of the Association.

**Section 5. *Qualifications of Officers.*** Until more than fifty percent (50%) of the Units are sold to persons other than the Developer, an officer need not be a Unit Owner. Thereafter, at least two (2) of the officers shall be Unit Owners. No Unit Owner shall be eligible for election as an officer if he is delinquent in the payment of his assessment. Except for the Developer, a transfer of title of his Unit by an officer who is a Unit Owner shall automatically operate as his resignation as an officer and as a member of the Board of Directors.

**Section 6. *Removal and Vacancies.*** An officer or Director may be removed from office upon the affirmative vote of a majority of the Unit Owners for any reason deemed by the Unit Owners to be in the best interest of the Condominium. In the event of any removal, resignation or vacancy in any of the offices, the remaining members of the Board of Directors shall elect a person to serve as a successor to the removed, resigned or vacant officer, who shall hold office for the balance of the unexpired term and shall succeed to a membership in the Board of Directors for the same term. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board of Directors.

**Section 7. *Annual Meeting of Board of Directors.*** The annual meeting of the Board of Directors shall be held at such place in Lee County, Alabama, as may be agreed upon by the Board of Directors immediately following the adjournment of the annual meeting of the Owners. The Board of Directors may establish a schedule of regular meetings to be held at such place as the Board of Directors may designate, in which event no notice shall be required to be sent to the said Board of Directors of said regular meetings once said schedule has been adopted.

**Section 8. *Special Meetings of Board of Directors.*** Special meetings of the Board of Directors may be called by the President, and in his absence, by the Vice-President, or by a majority of the members of the Board of Directors, by giving three (3) days notice, in writing, to all of the members of the Board of Directors of the time and place of said meeting, said notice to be mailed to or personally served on each member of the Board of Directors by the Secretary of the Association. By unanimous consent of the Board of Directors, a special meeting of the Board of Directors may be held without notice at any time or place. All notices of special meeting shall state the purpose of the meeting.

**Section 9. *Quorum.*** A quorum for the transaction of business at any regular or special meeting of the Board of Directors shall consist of a majority of the members of the Board but a majority of those present at any annual, regular or special meeting shall have the power to adjourn the meeting to a future time, provided that written notice of the new time, date and place shall be mailed to or personally served on each member of the Board of Directors by the Secretary of the Association at least three (3) days prior to the time fixed for said meeting.

**Section 10. *Compensation.*** The officers and Directors of this Association shall serve without compensation.

## ARTICLE II. OFFICERS: POWERS AND DUTIES

**Section 1. *The President.*** He shall be the Chief Executive Officer of the Association. He shall preside at all meetings of the Unit Owners and of the Board of Directors. He shall have executive powers and general supervision over the affairs of the Association and other officers. He shall sign all written contracts of the Association, and shall perform and have the powers necessary to perform all of the duties incident to his office and that may be delegated to him from time to time by the Board of Directors.

**Section 2. *The Vice-President.*** He shall perform all of the duties of the President in the event of the President's absence and such other duties as may be required of him from time to time by the Board of Directors.

**Section 3. *The Secretary-Treasurer.***

A. He shall issue notices of all Board of Directors meetings and all meetings of the Unit Owners; he shall attend and keep the minutes of the same; he shall have charge of all of the Association books, records and papers.

B. He shall have the custody of the Association funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated from time to time by the Board of Directors.

C. He shall disburse the funds of the Association as may be ordered by the Board in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meeting of the Board of Directors, or whenever they may require it, an account of all of his transactions as Treasurer and of the financial condition of the Association.

D. He shall collect the assessments and shall promptly report the status of collections and of all delinquencies to the Board of Directors.

E. He shall also give status reports to potential transferees, on which reports the transferees may rely. The liability of the Owners shall continue until the transfers have been approved and all such transferees shall be deemed liable for past due assessments (other than institutional mortgagees or purchasers at institutional mortgage foreclosure sales).

**Section 4. *Bond.*** The Secretary-Treasurer and all officers who are authorized to sign checks, must be bonded in an amount equal to the total anticipated assessments for a full year.

### ARTICLE III: POWERS OF THE ASSOCIATION

The Association, acting through the Board of Directors, shall have the following powers:

**Section 1. *Declaration.*** All of the powers specifically set forth in the Declaration and all of the powers incidental thereto.

**Section 2. *By-Laws.*** All of the powers specifically set forth in the By-Laws and all of the powers incidental thereto.

**Section 3. *Condominium Act.*** All of the powers specifically set forth in the Condominium Act and all powers incidental thereto.

**Section 4. *Miscellaneous Powers.***

A. To use and expend the assessments collected to carry out the purposes and powers of the Association.

B. To employ attorneys, accountants and other professionals as the need arises.

C. To employ workmen, janitors, gardeners, and such other agents and employees to carry out the powers of the Association and to purchase supplies and equipment therefor.

ARTICLE IV: FINANCE AND ASSESSMENTS

**Section 1. *Depository.*** The funds of the Association shall be deposited in a bank in Lee County, Alabama, designated by the Board of Directors in an account for the Association under resolutions approved by the Board of Directors and shall be withdrawn only upon checks and demands for money signed by any of the officers of the Association. All notes of the Association shall be signed by any two of the officers of the Association.

**Section 2. *Fiscal Year.*** The fiscal year for the Association shall begin on the first day of January of each year; provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America at such time as the Board of Directors deems it advisable.

**Section 3. *Determination of Assessments.***

A. The Board of Directors of the Association shall fix and determine from time to time the sum or sums necessary and adequate for the common expenses of the Condominium Property. Common Expenses shall include expenses for the operation, maintenance, repair or replacement of the Common Elements, costs of carrying out the powers and duties of the Association, all insurance premiums and expenses relating thereto, taxes until separately assessed, and any other expenses designated as common expense from time to time by the Board of Directors of the Association. The Board of Directors is specifically empowered on behalf of the Association to make and collect assessments and to lease, maintain, repair, and replace the Common Elements of the Condominium. Funds for the payment of common expenses shall be assessed against the Unit Owners in the proportions or percentages of sharing common expenses provided in the Declaration. Said assessments shall be payable monthly, in advance, or as ordered by the Board of Directors. Special assessments, should such be required by the Board of Directors, shall be levied and paid in the same manner as hereinbefore provided for regular assessments.

B. When the Board of Directors has determined the amount of any assessment, the Secretary-Treasurer of the Association shall mail or present a statement of the assessment to each of the Owners. All assessments shall be payable to the Secretary-Treasurer of the Association and, upon request, the Secretary-Treasurer shall give a receipt for each payment made to him.

**Section 4. *Delinquent Assessments.*** In the event an assessment is not paid within fifteen (15) days of the date it is due and payable, the Association, through its Board of Directors, may proceed to enforce and collect said assessment and interest at the rate of eighteen percent (18%) per annum against the Unit Owner owing the same in any manner provided for or allowed by the Condominium Act.

**Section 5. *Collection and Enforcement.*** In connection with assessments, the Association shall have all of the powers, rights and privileges and legal remedies provided for by the Declaration and the Condominium Act for collection and enforcement of assessments. Further, in this connection, each Unit Owner shall be liable for his assessment in the same manner provided for by the Declaration, and shall likewise be responsible for reasonable attorney fees, interest and costs incurred by the Association incident to the collection of such assessment or enforcement of any lien held by the Association for unpaid assessments.

#### ARTICLE V: MAINTENANCE AND REPAIRS

**Section 1. *Access.*** Any officer of the Association, or any agent of the Board of Directors, shall have the irrevocable right to have access to each Unit from time to time during reasonable hours that may be necessary for the inspection, maintenance, repair or replacement of any Common Element therein or accessible therefrom or for making emergency repairs therein to prevent damage to the Common Elements or to another Unit or Units.

**Section 2. *Maintenance and Repair.*** The Board of Directors may enter into a contract with any firm, person or corporation for the maintenance and repair of the Condominium Property and may join with other condominium associations in contracting with the same firm, person or corporation for maintenance and repair. The Board of Directors may, by contract, empower and grant to such firm, person or corporation the right of access as set forth in Section 1 of this Article.

**Section 3. *Unit Owners.*** Every Unit Owner must perform promptly all maintenance and repair work within his own Unit which, if omitted, would affect the Condominium Property, and the condominium project in its entirety, or in part belonging to other owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

**Section 4. *Prohibition.*** No Unit Owner shall make any alteration in the portions of the improvements of a condominium which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building containing his Unit or impair any easement.

**Section 5. *Material Alterations.*** There shall be no material alterations or substantial additions to the Common Elements, except as the same are authorized by the Board of Directors and ratified by the affirmative vote of a majority of the Unit Owners present at any regular or special meeting of the Unit Owners.

## ARTICLE VI: VIOLATIONS

**Section 1.** In the event of a violation (other than the non-payment of an assessment) by the Unit Owner in any of the provisions of the Declaration, these By-Laws, or the applicable portions of the Condominium Act, the Association, by direction of its Board of Directors, may notify the Unit Owner by written notice of such breach, transmitted by Registered or Certified Mail, Return Receipt Requested, and if such violation shall continue for a period of thirty (30) days from the date of such notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional, inexcusable and material breach of the Declaration, the By-Laws, or the pertinent provisions of the Condominium Act, and the Association may then, at its election, pursue any of the following options: (i) an action at law to recover for its damage on behalf of the Association or on behalf of the other Unit Owners; (ii) an action in equity to enforce performance on the part of the Unit Owner; or (iii) an action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief. Failure on the part of the Association to maintain such an action at law or in equity within sixty (60) days from date of a written request, signed by a Unit Owner, sent to the Board of Directors, shall authorize any Unit Owner to bring an action in equity or suit at law on account of the violation, in the manner provided for by the Condominium Act or other applicable statute. Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter.

## ARTICLE VII: ACQUISITION OF UNITS

**Section 1. *Voluntary Sale or Transfer.*** Upon receipt of a Unit Owner's written notice, in accordance with the Declaration or the Condominium Act, the Board of Directors may, with the authorization and approval of a majority of the Unit Owners present at any regular or special meeting of the Unit Owners, acquire a condominium parcel in the name of the Association or a designee.

**Section 2. *Acquisition on Foreclosure.*** At any judicial sale of a Unit, the Board of Directors may, with the authorization and approval of a majority of the Unit Owners present at any regular or special meeting of the Unit Owners, acquire a condominium parcel in the name of the Association or its designee. The term "judicial" as used in this Section shall include any foreclosure, including by non-judicial power of sale, of any lien, including a lien for assessments. The power of the Board of Directors to acquire at any judicial sale shall never be interpreted as any requirement or obligation on the part of the Board of Directors, or of the Association, to acquire at any judicial sale, the provisions hereof being permissive in nature and for the purpose of setting forth the power in the Board of Directors to so acquire should the requisite approval of the Unit Owners be obtained.

## ARTICLE VIII: NOTICE

**Section 1.** Whenever notices are required to be sent hereunder, the same shall be sent to the Unit Owners by Certified Mail, at their place of residence in the condominium building, and to the Association, by Certified Mail, at P.O. Box 1437, Auburn, AL, 36831. All notices shall be deemed and considered sent when mailed. Any party may reserve the right to change the place of notice to him or it by written notice, in accordance with the terms and provisions of this Article.



ARTICLE IX: AMENDMENTS TO THE BY-LAWS

**Section 1.** These By-Laws may be amended in the same manner as the Declaration may be amended, and in accordance with the provisions of the Condominium Act and the Articles of Incorporation of the Association. No modification or amendment shall be valid unless set forth in, or annexed to, a duly recorded Amendment to the Declaration.

ARTICLE X: RULES AND REGULATIONS

**Section 1.** The Board of Directors may, from time to time, adopt and amend previously adopted administrative Rules and Regulations covering the details of the operation and use of the Common Elements of the Condominium; provided, however, that no such Rules and Regulations shall conflict with the Declaration, these By-Laws or the provisions of the Condominium Act, and in the event of any conflict between the said Rules and Regulations and the foregoing, the latter shall prevail. The Board of Directors shall, from time to time, post in a conspicuous place on the Condominium Property a copy of the Rules and Regulations adopted, from time to time, by the Board of Directors.

APPROVED AND DECLARED AS BY-LAWS OF BURTON PLACE  
AT MIDTOWN CONDOMINIUM ASSOCIATION, INC., by the Undersigned:

DIRECTORS:

\_\_\_\_\_(L.S.)  
THOMAS H. COOKSEY, SR.

\_\_\_\_\_(L.S.)  
THOMAS H. COOKSEY, JR.

\_\_\_\_\_(L.S.)  
JIM W. CLEVELAND, III

\_\_\_\_\_(L.S.)  
WILLIAM A. CLEVELAND

**Exhibit "D" to Declaration  
Percentage Interest in Common Elements**

Each Unit Owner owns an undivided interest in Common Elements equal to approximately 1.43%

**Exhibit "E" to Declaration  
Condominium Rules and Regulations**

See attached.

**BURTON PLACE AT MIDTOWN CONDOMINIUM**  
**CONDOMINIUM RULES AND REGULATIONS**

Each Owner shall be governed by and shall comply with the terms of the Condominium Documents and the Condominium Rules and Regulations adopted pursuant to said Condominium Documents. All terms used in these Condominium Rules and Regulations shall have the same meaning as the identical terms used in the Declaration of Condominium for Burton Place at Midtown Condominium. Failure of an Owner to comply with the provisions of the Condominium Documents and these Condominium Rules and Regulations shall entitle the Association or other Owners to pursue any and all legal and equitable remedies for the enforcement of such provisions, including, without limitation, an action for damages, an action for injunctive relief or an action for declaratory judgment.

1. Common Elements and Limited Common Elements. The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Owners, their guests and lessees.
2. Nuisances. No nuisance shall be allowed upon the Condominium Property or within a Unit, nor any use or practice that is the source of annoyance to Owners or which interferes with the peaceful possession and proper use of the Condominium Property by the Owners. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard allowed to exist. No Owner shall permit any use of a Unit or make or permit any use of the Common Elements that will increase the cost of insurance upon the Condominium Property.
3. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or a Unit, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed.
4. Signs. No "For Sale" signs or other displays or advertising shall be maintained on any part of the Common Elements, Limited Common Elements, or Units, except that the right is specifically reserved to the Developer to place and maintain "For Sale" signs on the Condominium Property for as long as the Developer may have Units to sell. The right to place and maintain "For Sale" signs on the Condominium Property is also specifically reserved to the Developer, Developer's successors or assigns, or any entity affiliated with the Developer.
5. Prohibited Vehicles. No trailers, commercial vehicles, boat trailers, or watercraft of any kind (excluding those vehicles owned by the Developer or the Management Company) shall be parked in any parking space, except such temporary parking spaces provided for the purpose as may be necessary to effectuate deliveries to the Condominium, the Association or the Owners. Watercraft of any kind may not be stored on the Condominium Property without express written permission of the Association or the Management Company. Bicycles and motorcycles shall not be stored on the Condominium Property except in areas designated for such purpose.
6. Exterior Appearance. No Owner shall decorate or alter any part of a Unit so as to effect the appearance of the Unit from the exterior. Such decoration or alteration shall include, without limitation, painting or illumination of the exterior of a Unit, reflective film or other window treatments, draperies, window shades, screen doors and lights. The Association shall have the sole discretion, which may be based on aesthetic principles only, to determine compliance with this provision.

7. Antennas and Satellite Dishes. No antenna, satellite dish or other communication device of any type designed to serve a Unit shall be allowed on the Common Elements or Limited Common Elements, except as may be provided by the Association to serve as a master antenna. No electrical or other equipment may be operated on the Condominium Property which interferes with television or cable signal reception.
8. Noise. Should noise transmission create a disturbance or a nuisance, the responsibility is with the Owner, not the Association, to abate the noise transmission. In order to insure the comfort of all Owners and authorized users, radio, audio and television sets, and any and all other such equipment generating noise should be turned down to a minimum volume so as not to disturb other persons between the hours of 11:00 p.m. and 8:00 a.m. All other unnecessary noises between these hours should be avoided.
9. Obstructions. Sidewalks, entrances, driveways, passages, patios, courts, stairways, corridors, halls and/or all other areas intended for common use must be kept open and shall not be obstructed in any manner. Rugs or mats, except those either permitted or placed by the Association, must not be placed outside of doors in corridors. No signs, notices or advertisements shall be inscribed or exposed on or at any window of a Unit or any part of the Condominium Property, except such as shall have been approved in writing by the Association or is permitted by the Condominium Documents; nor shall anything be projected out of any window on the Condominium Property. All personal property of Owners shall be stored within the Unit.
10. Children. Children are to play only in areas either designated or clearly intended for play, and they are not to play in public halls, stairways, or other common areas which would cause an obstruction. Reasonable supervision by parents or guardians must be exercised at all times when children are playing on the Condominium Property.
11. Balconies. No receptacles or other movable objects, except for plants and plant containers, may be kept, placed or maintained on ledges or balconies. No objects shall be hung from balconies or window sills. No cloth, clothing, rugs or mops shall be hung up or shaken from windows, doors or balconies. Owners shall not allow anything to be thrown from or to fall from windows, doors, balconies or the interior of the building from hall doors.
12. Hallways. Bicycles, garbage cans, laundry, dry cleaning, supplies or other articles shall not be placed in the halls or on staircase landings without prior authorization from the Association or the Management Company. No Owner shall allow doors to the corridor to remain open for any purpose other than the immediate ingress and egress.
13. Entry for Emergencies. In case of emergency originating in or threatening any Unit, regardless of whether the Owner is present at the time of such emergency, the Board of Directors of the Association, the Management Company or any other person authorized by the Board of Directors, shall have the right to enter such Unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, the Association or its designee shall be allowed to retain a key for each Unit.
14. Plumbing. Plumbing shall not be used for any other purposes than those for which it was constructed, and no sweepings, rubbish, rags or other foreign substances shall be deposited into plumbing. The cost of any damage resulting from misuse shall be borne by the Owner.
15. Roof. Owners are not permitted on the roof of any building within the Condominium Property for any purpose without the express approval of the Association or the Management Company.

16. Solicitation. There shall be no solicitation by any person anywhere on the Condominium Property for any cause, charity or purpose whatsoever, unless specifically authorized in writing by the Association or the Management Company, except for solicitation by the Developer or an entity affiliated with the Developer in marketing the sale or rental of Units.
17. Parking. No vehicle belonging to any Owner or to a member of the family of an Owner or guest, tenant or employee of any Owner shall be parked in any unauthorized area.
18. Storage of Dangerous Items. No hazardous, inflammable, combustible, or explosive fluid, chemical or substance, shall be kept in any Unit, Common Element or Limited Common Element except as are required for normal household use.
19. Employees/Agents Control and Entry of Units. Employees or agents of the Association or Management Company, and employees or agents of the Developer's or affiliated entity's on-going sales shall not be sent off the Condominium Property by any Owner or authorized user at any time for any purpose. No Owner or authorized user shall direct, supervise or in any manner attempt to assert any control over the employees of the Management Company or the Association. Violations of these Rules and Regulations, or other matters of concern, should be brought to the attention of the Management Company for proper resolution. Employees or agents of the Management Company shall be permitted, during reasonable hours, to enter Units for maintenance and repairs.
20. Complaints. Complaints regarding the service of the Condominium shall be made in writing to the Management Company, as long as the Management Contract remains in effect, and thereafter, to the Association.
21. Payment of Maintenance Fees, and Special Charges and Fines. Payment of maintenance fees and other duly authorized charges and assessments shall be made at the office of the Management Company, as designated in the Management Contract.
22. Weapons. No explosives, knives, or weapons of any kind shall be permitted in any Unit or anywhere on the Condominium Property.
23. Pets. Owner(s) of the Unit will be responsible for any damages to the Common Elements caused by any pet. Pets may not exceed twenty-five (25) pounds, must not be a nuisance, and are limited to one (1) per Unit.

Exhibit 2 to Offering Statement  
Budget

See attached budget prepared by the Declarant.

**PROPOSED OPERATING BUDGET  
BURTON PLACE CONDOMINIUM ASSOCIATION 2007/2008**

<b><u>Expenditure:</u></b>	<b><u>Per Unit/Month:</u></b>
Common Maintenance	<b>\$5.00</b>
Management	<b>\$15.00</b>
Insurance	<b>\$12.00</b>
Electricity	<b>\$10.00</b>
Water & Sewer	<b>\$1.50</b>
Trash Disposal	<b>\$6.00</b>
Pool Maint./Supplies	<b>\$1.50</b>
Landscape Maintenance	<b>\$15.00</b>
Pest Control/Inspection	<b>\$3.00</b>
To Reserves	<b>\$10.00</b>
<b>TOTAL:</b>	<b>\$79.00</b>



Exhibit 3 to Offering Statement  
Purchase Contract

See attached.