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FIRST AMENDMENT TO CONDOMINIUM DECLARATION FOR HAMILTON COMMONS AT CUMBERLAND

(A Condominium in Tyler, Smith County, Texas)

THE STATE OF TEXAS
COUNTY OF SMITH

§
§ KNOW ALL MEN BY THESE PRESENTS:
§

THIS FIRST AMENDMENT TO CONDOMINIUM DECLARATION FOR HAMILTON COMMONS AT CUMBERLAND (this "First Amendment") made as of this ¹⁵ 7th day of December, 2011, by Mezayek Building, Ltd. ("Declarant"), whose address is 112 E. Heritage Drive, Tyler, Texas 75703.

WHEREAS, the Condominium Declaration for Hamilton Commons at Cumberland (the "Declaration") is dated January 27, 2009 and is recorded as instrument No. 2009-R00003362 in the Official Public Records of Smith County, Texas and

WHEREAS, Declarant desires to amend the Declaration pursuant to the provisions of Section 6.4 and Article IV of the Declaration and pursuant to the provisions of Section 82.060 of the Texas Property Code.

NOW, THEREFORE, for and in consideration of the premises, Declarant hereby amends the Declaration as follows:

1. Pursuant to the provisions of Article IV of the Declaration, Phase 2 (as described in Exhibit "C-1-Phase 2" attached hereto), including all improvements, is hereby made a part of Hamilton Commons at Cumberland condominium regime and shall hereafter be subject to the Declaration, as amended, in addition to, and as fully and completely as, Phase 1.

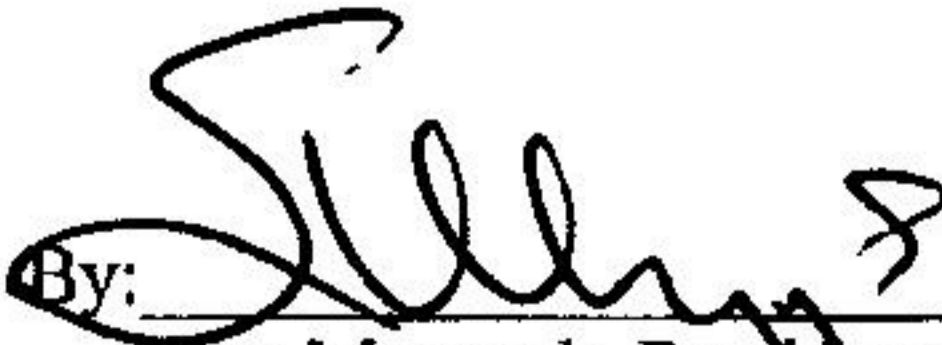
Attached hereto as Exhibit "C-2-Phase 2" is the plat and plan for Phase 1 and Phase 2 of Hamilton Commons at Cumberland.

3. As provided in Section 4.3 of the Declaration, the ownership of the common areas in Phase 1 and Phase 2, and the allocation of expenses of maintaining such common areas shall be computed on a pro-rata basis using the percentages set forth in Exhibit "E-Phase 1 and 2" attached hereto and made a part hereof. The attached Exhibit "E-Phase 1 and 2" supersedes the Exhibit "E" attached to the Declaration.
4. The easements affecting Phase 1 and Phase 2 are listed on Exhibit "D" to the Declaration.

5. The definition of Common Elements in the Declaration is amended to include all of the property included in Phase 1 and Phase 2, and all of the improvements thereto and thereon located, excepting all Units. Common Elements shall consist of the General Common Elements and Limited Common Elements.
6. The term General Common Elements is amended to include reference to Phase 2, as described in Exhibit "C-1-Phase 2" attached hereto, as well as Phase 1.
7. The terms Plat, Survey Map, and Plans are amended to include Exhibit "C-2-Phase 2" attached hereto and the typical floor plans for Phase 2 Units attached hereto as Exhibit "C-2-Phase 2".
8. The terms Premises, Project, or Property are amended to include the land described as Phase 1 and Phase 2, together with the Buildings and all improvements and structures thereon and all rights, easements and appurtenances belonging thereto.
9. Declarant reserves with respect to Phase 2 the same rights as are reserved by Declarant with respect to Phase 1 in the Declaration.
10. Unless otherwise expressly provided, terms defined in the Declaration shall have the same meaning when used in this First Amendment.
11. To the extent of any conflict between the provisions of the Declaration and this First Amendment, the provisions of this First Amendment shall govern and control.
12. Except as herein expressly provided, all of the provisions of the Declaration, as amended, shall apply to Phase 1 and Phase 2.
13. Declarant reserves the right to amend or restate this First Amendment, to the extent permitted or required by the Declaration or by applicable law, and to the extent required in order to correct any errors in this First Amendment, or to clarify any provision of this First Amendment, or to make this First Amendment conform to applicable law.

THIS FIRST AMENDMENT is executed on the month, day and year first stated above.

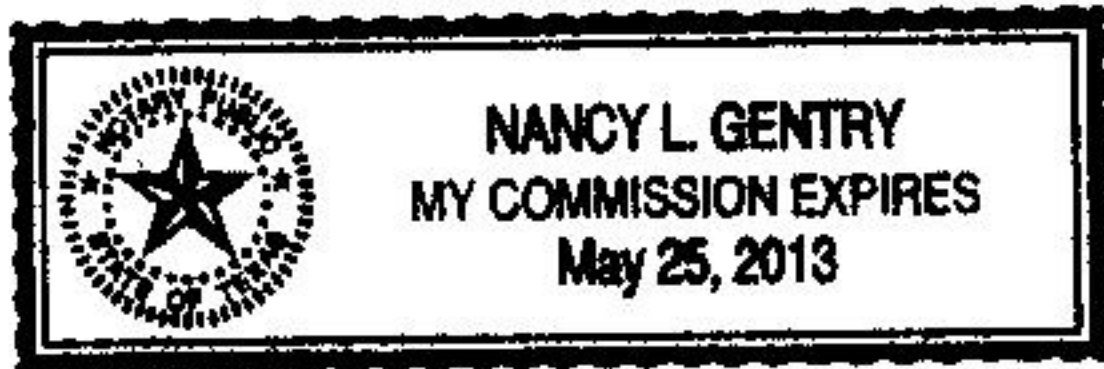
MEZAYEK BUILDING, LTD., a Texas Limited Partnership, Acting By and Through Its General Partner, S.M. Mezayek, LLC

By: 
Sam Mezayek, President

STATE OF TEXAS

COUNTY OF SMITH

This instrument was acknowledged before me on the 7th day of December, 2011, by Sam Mezayek, President of S.M. Mezayek, LLC, general partner of Mezayek Building, Ltd., a Texas limited partnership, on behalf of said partnership.



Nancy L. Gentry

Notary Public, State of Texas

AFTER RECORDING RETURN TO
James L. Hedrick
110 North College
Plaza Tower, Suite 500
Tyler, Texas 75702

Unofficial Copy

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EXHIBIT "C-1-Phase 2"
(Legal Description for Phase 2)

SEE ATTACHED

Unofficial Copy



Parcel 1
1.049 Acre Tract
Hamilton Commons, Phase 2
Mary M. Long Survey, A-562
Job No. 200703

Being a 1.049 acre tract in the Mary M. Long Survey, Abstract No. 562, part of Lot 1, New City Block 1546-H of Hamilton Commons per final plat thereof recorded in Cabinet 1, Slide 59-A of the Plat Records of Smith County, Texas, said 1.049 acre tract being more completely described by metes and bounds as follows:

Beginning at a 1/2" iron rod found for the Northeast corner of Hamilton Commons Phase I, a called 4.621 acre tract;

THENCE South 87 degrees 56 minutes 08 seconds West, with said North boundary line of said Phase I a distance of 85.85 feet to a 1/2" iron rod set;

THENCE South 2 degrees 03 minutes 52 seconds East, a distance of 19.93 feet continuing with said North boundary line of Phase I to a 1/2" iron rod set;

THENCE South 87 degrees 56 minutes 08 seconds West, a distance of 48.72 feet continuing with said North boundary line of Phase I to a 1/2" iron rod set;

THENCE South 2 degrees 03 minutes 52 seconds East, a distance of 81.48 feet continuing with said North boundary line of Phase I to a 1/2" iron rod set;

THENCE South 87 degrees 56 minutes 08 seconds West, a distance of 68.67 feet continuing with said North boundary line of Phase I to a 1/2" iron rod set;

THENCE North 2 degrees 03 minutes 52 seconds West, a distance of 12.69 feet continuing with said North boundary line of Phase I to a 1/2" iron rod set;

THENCE South 87 degrees 56 minutes 08 seconds West, a distance of 9.94 feet continuing with said North boundary line of Phase I to a 1/2" iron rod set;

THENCE North 2 degrees 03 minutes 52 seconds West, a distance of 192.32 feet to a 1/2" iron rod set;

THENCE North 87 degrees 56 minutes 08 seconds East, a distance of 78.61 feet to a 1/2" iron rod set;

THENCE North 2 degrees 03 minutes 52 seconds West, a distance of 109.86 feet to a 1/2" iron rod set;

THENCE North 87 degrees 56 minutes 08 seconds East, a distance of 134.56 feet to the **PLACE OF BEGINNING containing 1.049 acres.**

Bearing basis is the Texas State Plane Coordinate System, Grid North Central Zone, NAD 83, (feet), based on the 1993 adjustment of the NAD 83 System. The Reference Monument is Station FAA TYRA.

I, Roland Navarro, Registered Professional Land Surveyor No. 5876, Texas, do hereby certify that the above field note description was prepared from an actual on-the-ground survey made under my direction and supervision during the month of May, 2008.

GIVEN UNDER MY HAND AND SEAL, This 30th day of November, 2011

Roland Navarro
Roland Navarro, R.P.L.S. 5876

200703HamiltonPH2-revised(1.409ac)fn.doc



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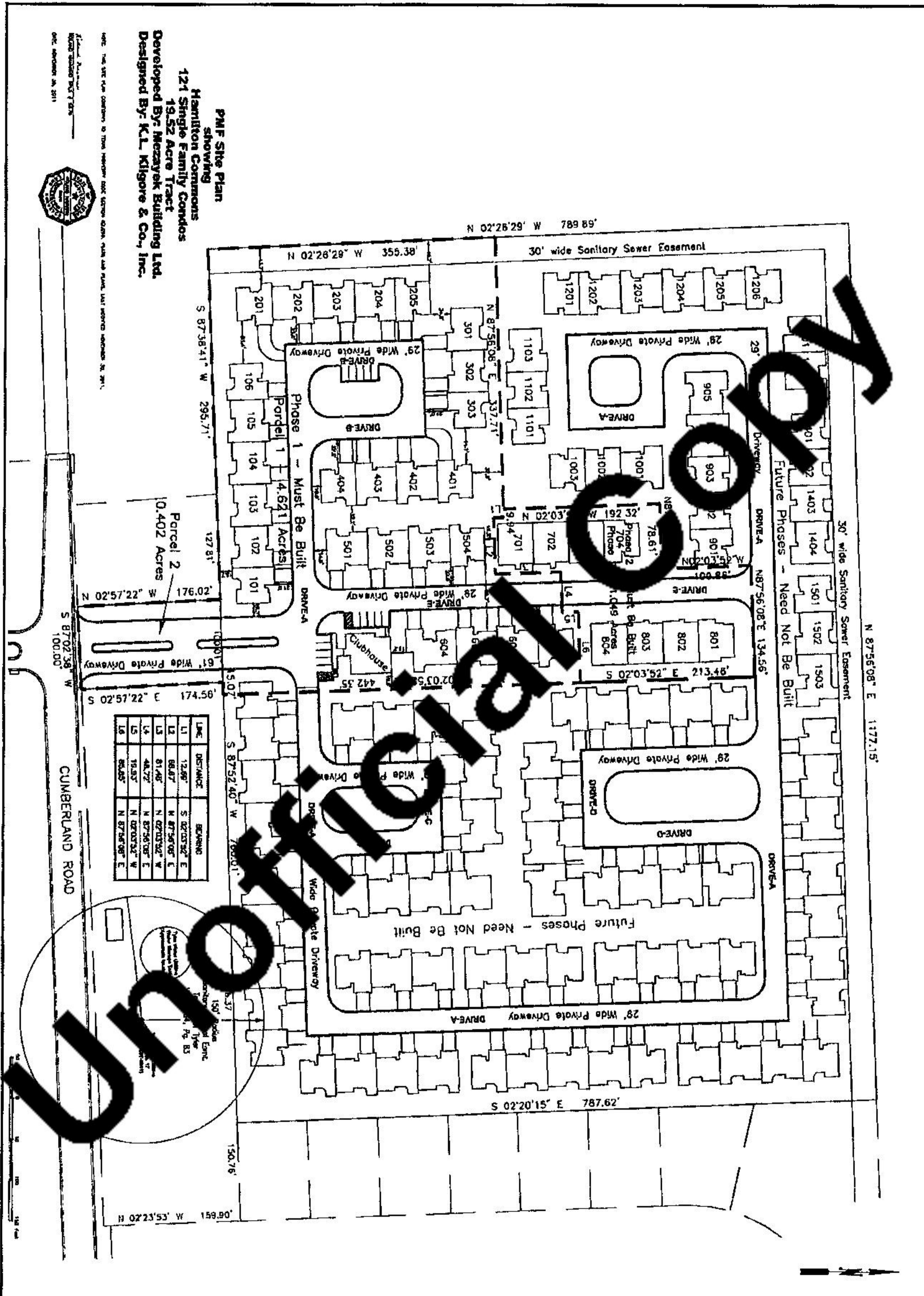


EXHIBIT "C-2-Phase 2"
(Plat and Plan for Phase 1 and Phase 2)

SEE ATTACHED

Unofficial Copy





PMF Site Plan
 showing
 Hamilton Commons
 121 Single Family Condos
 19.52 Acre Tract
 Developed By: Mezayek Building Ltd.
 Designed By: K.L. Kilgore & Co., Inc.

Note: The site plan conforms to the provisions of the applicable zoning ordinance and all other applicable laws and regulations.
 K.L. Kilgore & Co., Inc.
 6712 Palmyra Drive
 Tyler, Texas 75703
 (936) 281-7400
 Fax: (936) 281-3784



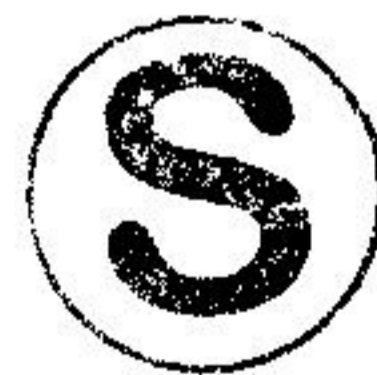
LINE	DISTANCE	BEARING
L1	12.00'	S 02°15'22" E
L2	88.87'	N 87°56'08" E
L3	81.48'	N 02°15'22" W
L4	48.72'	N 87°56'08" E
L5	15.83'	N 02°15'22" W
L6	80.85'	N 87°56'08" E

<p> PMF Site Plan Showing Hamilton Commons Mezayek Building Ltd. Tyler, Smith County, Texas </p>	<p> K.L. Kilgore & Company, Inc. 6712 Palmyra Drive Tyler, Texas 75703 (936) 281-7400 Fax: (936) 281-3784 www.kkilgore.com </p>	<ul style="list-style-type: none"> • SURVEYING • PLANNING • MAPPING 	<p> DESIGNED BY: DRAWN BY: RJA CHECKED BY: K.L.K. DATE: Apr 23, 2003 SCALE: 1" = 50' </p>
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EXHIBIT "E-Phase 1 and 2"
(Allocation Phase 1 and Phase 2)

SEE ATTACHED

Unofficial Copy



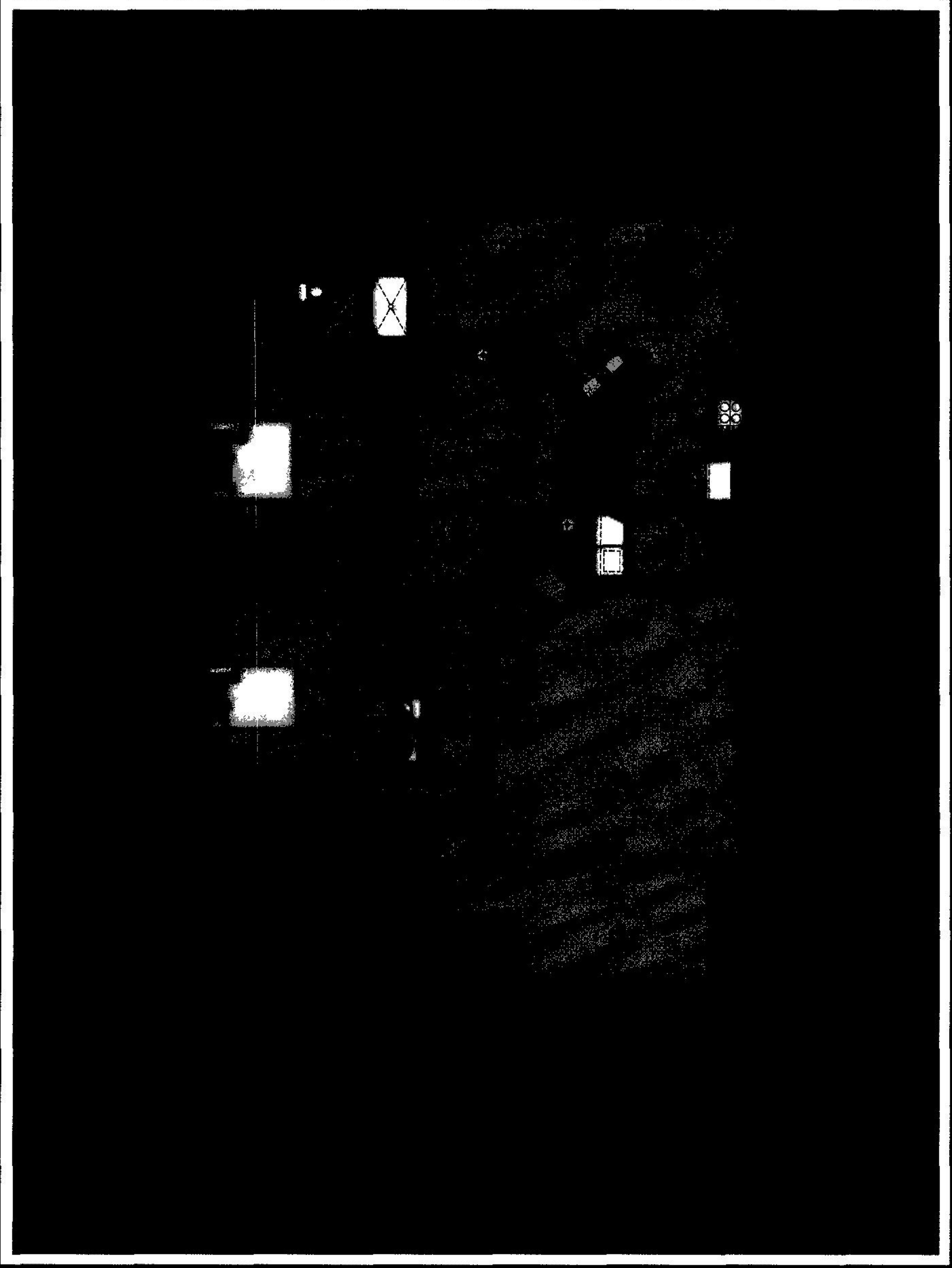
Unit	Size	Plan	Sq Ft	% of Ownership
101	2/2/2	Dogwood	1,342	2.5382%
102	3/2/2	Magnolia	1,695	3.2058%
103	3/2/2	Magnolia	1,695	3.2058%
104	3/2/2	Magnolia	1,695	3.2058%
105	3/2/2	Magnolia	1,695	3.2058%
106	2/2/2	Dogwood	1,342	2.5382%
201	2/2/2	Dogwood	1,342	2.5382%
202	3/2/2	Magnolia	1,695	3.2058%
203	3/2/2	Magnolia	1,695	3.2058%
204	3/2/2	Magnolia	1,695	3.2058%
205	2/2/2	Dogwood	1,342	2.5382%
301	2/2/2	Dogwood	1,342	2.5382%
302	3/2/2	Magnolia	1,695	3.2058%
303	2/2/2	Dogwood	1,342	2.5382%
401	2/2/2	Dogwood	1,342	2.5382%
402	3/2/2	Magnolia	1,695	3.2058%
403	3/2/2	Magnolia	1,695	3.2058%
404	2/2/2	Dogwood	1,342	2.5382%
501	3/2/2	Magnolia	1,695	3.2058%
502	3/2/2	Magnolia	1,695	3.2058%
503	3/2/2	Magnolia	1,695	3.2058%
504	2/2/2	Dogwood	1,342	2.5382%
601	2/2/2	Dogwood	1,342	2.5382%
602	3/2/2	Magnolia	1,695	3.2058%
603	2/2/2	Magnolia	1,695	3.2058%
604	3/2/2 Deluxe	Sequoia	1,960	3.7070%
701	2/2/2	Bradford	1,564	2.9580%
702	2/2/2	Bradford	1,564	2.9580%
703	2/2/2	Bradford	1,564	2.9580%
704	2/2/2	Dogwood	1,342	2.5382%
801	2/2/2	Dogwood	1,342	2.5382%
802	2/2/2	Bradford	1,564	2.9580%
803	2/2/2	Bradford	1,564	2.9580%
804	2/2/2	Bradford	1,564	2.9580%
			52,873	100%

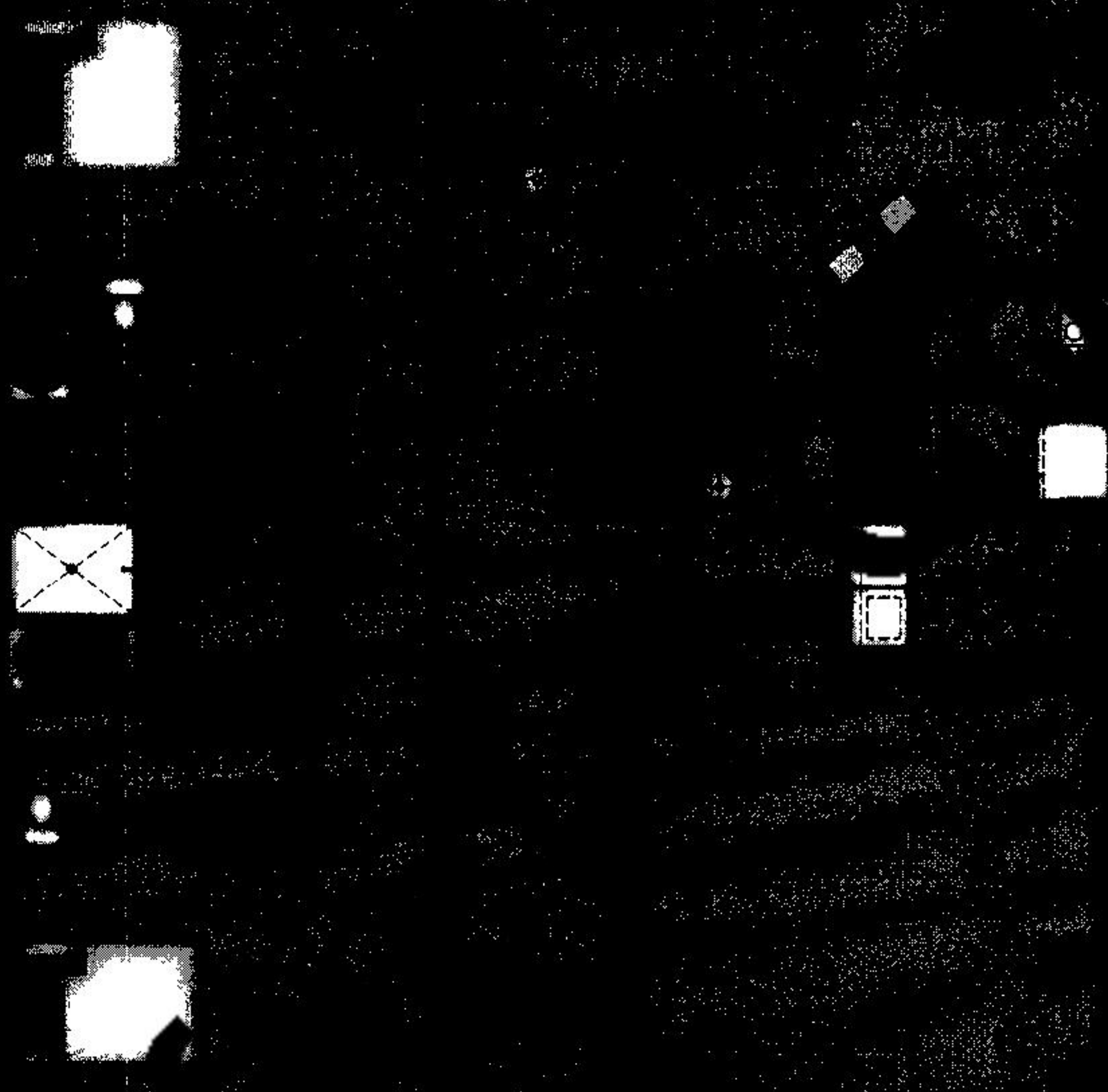
EXHIBIT "F-2"
(Typical Floor Plans for Phase 2)

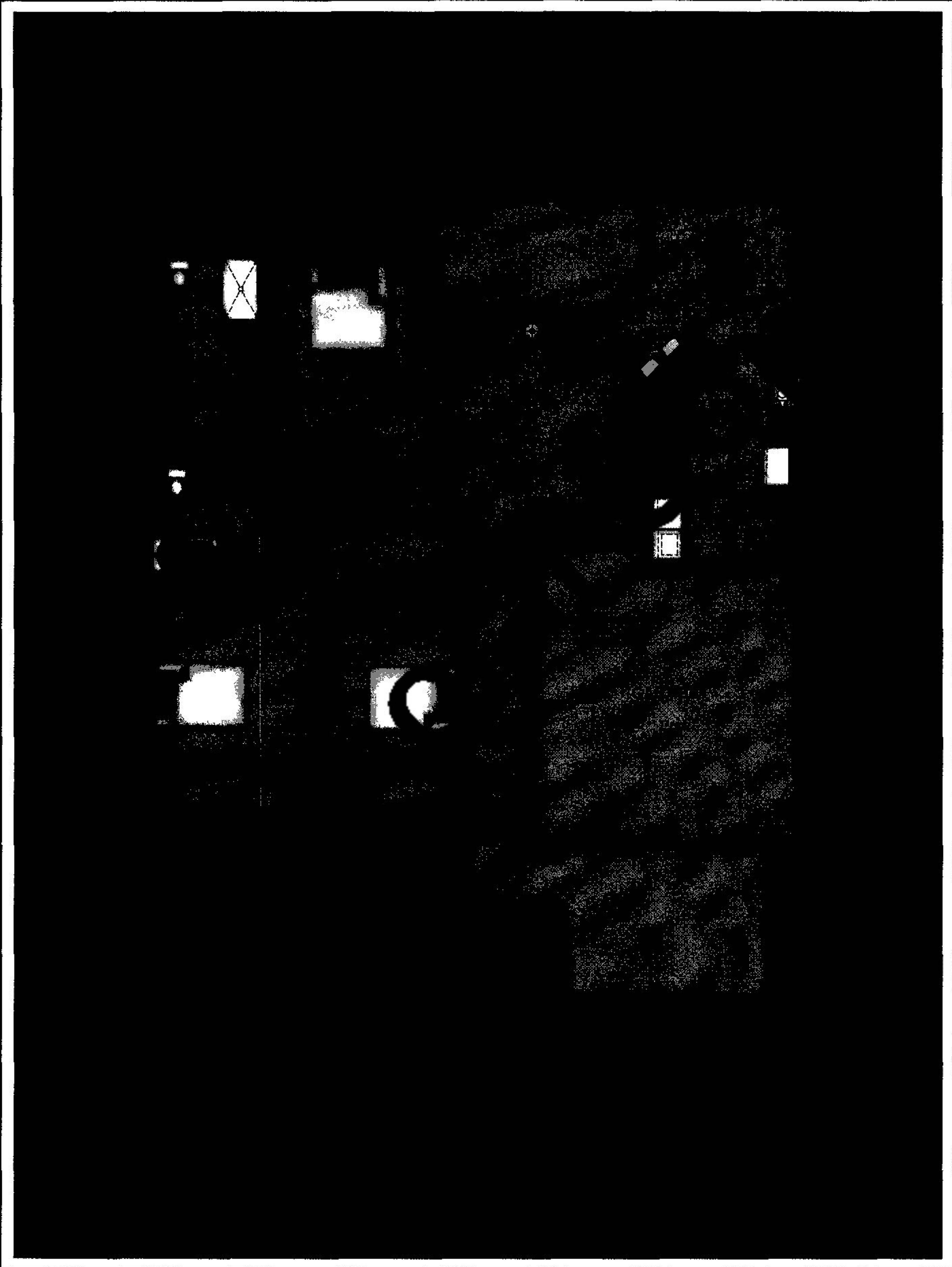
SEE ATTACHED

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Filed For Record in:
Smith County, Texas
On Dec 08, 2011
at 10:40A
Receipt #: 598236
Recording: 72.00
Doc/Num : 00053541
Doc/Type: Recordings - Land
Deputy - Debbie Nicholas

I hereby certify that this
instrument was filed and duly
recorded in the Official
Records of Smith County, Texas

Karen Phillips
County Clerk

Unofficial Copy