RECEIVED
Jun 30 2021
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III,
Master-in-Equity

Appellate Case No. 2020-001275

Westbury Park Residential Association, Inc…….Respondent,

v.

Estate at Westbury Owners Association, Inc……..Appellant.

RECORD ON APPEAL
Vol. 2 of 4

Ian S. Ford
Ainsley F. Tillman
FORD WALLACE THOMSON LLC
715 King Street | Charleston, SC 29403
(843) 277-2011

Evan K. Bromley
BROMLEY LAW FIRM LLC
211 Goethe Road, Suite B
Bluffton, South Carolina 29910
(843) 868-2801

Attorneys for Appellant Estate at Westbury Owners Association, Inc

Benjamin T. Shelton
SHELTON LAW FIRM, LLC
P.O. Box 21069
Hilton Head Island, SC 29925-1069
(843) 802-0087

Kathleen Chewning Barnes
BARNES LAW FIRM, LLC
P.O. Box 897
Hampton, SC 29924
(803) 943-4529

Attorneys for Respondent Westbury Park Residential Association, Inc

INDEX

PAGE

Index……. i

VOLUME I

Notice of Appeal, September 22, 2020……. 8

Record on Appeal Estate at Westbury,

Orders

Order of Consent of Reference to Master in Equity, Jun. 8, 2020……..1

Order Denying Motion for Partial Summary Judgement, Sep. 21, 2020……..5

Order Denying & Granting Partial Motion for Summary Judgment, Oct 7, 2020.....10

Pleadings

Summons and Complaint, Jan 24, 2020……..13

Exhibit 1 Estate Property……...35

Exhibit 2 The Apartment's Deed……..49

Exhibit 3 Montecito Deed……..54

Exhibit 4 Notice of Extension ……...65

Answer and Counterclaim of Estate at Westbury, March 18, 2020…….76

Exhibit 1 Apartment Declaration…….103

Exhibit 2 Amendment to Declaration……..117

Exhibit 3 Estate Payment Division Agreement & Assignment……127

Exhibit 4 Notice of Extension……130

Exhibit 5 Gate Beaches & Violations……131

Plaintiff's Reply to Counterclaims, April 13, 2020……133

Motions

Notice of Motion for Temporary Injunction, Jan 24, 2020..... 138

Defendant Motion for Partial Summary Judgement, May 21, 2020…….142

Plaintiff Memorandum in Opposition to Motion for Summary Judgment, Jun 08, 2020 ……145

Plaintiff's Amended Memorandum in Opposition of Motion for Summary Judgment, Jun 08, 2020..... 150

Defendant Counterclaim Plaintiffs Memorandum in Support of Motion for Partial Summary Judgment, Sep 14, 2020…….155

Exhibit 1 Master Plan……..189

Exhibit 2 Apartment Declaration……..190

Exhibit 3 Amendment to Declaration……...204

Exhibit 4 Residential Declaration……..207

VOLUME 2

Exhibit 4, Residential Declaration, cont. 247

Exhibit 5 Estate Payment Division Agreement & Assignment…….281

Exhibit 6 Notice of Extension…….284

Exhibit 7 Plat Book 67, Page 118……291

Exhibit 8 Phase 1 Westbury Park……..292

Memorandum in Opposition to Motion for Temporary Injunction Sep 14, 2020 ... 293
Plaintiff's Supplemental Memorandum in Opposition to Summary Judgement and in

Exhibit 1 Westbury Park HOA……...303

Exhibit 2 Westbury Park & Gate Access ……..305

Exhibit 3 The Estate of Westbury Condominium……311

Exhibit 4 Email Westbury Park……..312

Exhibit 5 Master Deed…….313

Plaintiff Supplemental Memorandum in Opposition to Summary Judgement and in Support of its Motion for A Temporary Injunction …….. 430

Exhibit 1 Apartment Declaration……..447

Exhibit 2 Estate at Westbury Board Meeting Minutes dated 12/11/10……..461

Exhibit 3 Letter from Estate at Westbury…….476

Exhibit 4 Amendment…….479

Exhibit 5 Notice of Extension…….482

Exhibit 6 Correspondence from Counsel for Defendant……489

Exhibit 8 Letter to Defendant dated June 20, 2019……..492

VOLUME 3

Exhibit 8 Letter to Defendant dated June 20, 2019, cont.……..496

Exhibit 9 Letter to Defendant dated April 8, 2020……...498

Transcripts

Hearing September 16, 2020 501

VOLUME 4

Hearing September 16, 2020, cont. 746

Philip F. Matteo, Junior

Examination by Mr. Shelton 539

Examination by Mr. Ford 588

Further Examination by Mr. Shelton..... 643

Karen G. Parks

Examination by Mr. Shelton 646

Examination by Mr. Ford 657

Further Examination by Mr. Shelton..... 667

Further Examination by Mr. Ford 670

Jeanette Prinsen

Examination by Mr. Shelton 674

Examination by Mr. Ford 697

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

3. Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth herein.

(d) Arbitration.

1. If the Parties do not resolve the Claim through mediation, the Claimant shall have 30 days following termination (as determined by the mediator) of the mediation proceedings ("Termination of Mediation") to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "D" or the Claim shall be deemed abandoned and the Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge the Respondent from any liability to Persons not a Party to the foregoing proceedings.

2. Unless the Parties agree in writing to be bound by the arbitrator's decision ("Award") prior to the commencement of arbitration proceedings under the foregoing paragraph, any Party shall be free to reject the Award and sue in any court of competent jurisdiction or initiate proceedings before any appropriate administrative tribunal.

12.5. **Allocation of Costs of Resolving Claims**.

(a) Each Party shall bear all of its own costs incurred prior to and during the proceedings described in Section 12.4(a), (b) and (c), including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section 12.4(c).

(b) Each Party shall bear all of its own costs (including the fees of its attorney or other representative) incurred after the Termination of Mediation under Section 12.4(c) and shall share equally in the costs of conducting the arbitration proceeding (collectively, "Post Mediation Costs") except as otherwise provided in this subsection.

If any of the Parties rejects the Award and pursues a judicial resolution under Section 12.4(d)(2) and the final judgment is either the same as the Award or more advantageous to any non-rejecting Party, each such non-rejecting Party shall be entitled to recover its Post Mediation Costs from the rejecting Party. If there is more than one rejecting Party, such non-rejecting Party's Post Mediation Costs shall be allocated pro rata among all rejecting Parties.

12.6. **Enforcement of Resolution**. If the Parties agree to resolve any Claim through negotiation or mediation in accordance with Section 12.4 and any Party thereafter fails to abide by

Westbury Record on Appeal 0247

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

the terms of such Agreement or if the Parties agree to accept the Award following arbitration and any Party thereafter fails to comply with such Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 12.4. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' and paralegals' fees and court costs.

PART SIX: CHANGES IN THE COMMUNITY

Communities such as Westbury Park are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. Westbury Park and its governing documents must be able to adapt to these changes while protecting the things that make Westbury Park special.

ARTICLE XIII
CHANGES IN OWNERSHIP OF UNITS/RIGHT OF FIRST REFUSAL

13.1. When any Unit within the Property is offered for sale by successors in title to Declarant, Declarant shall have the exclusive option to purchase such Unit at the price and on the terms of any bonafide offer for such Unit made in writing to the Unit Owner at such time and submitted to Declarant for review and verification. Each Owner shall notify Declarant of its intent to sell his Unit with such notice setting forth in full the certified terms and conditions of the sale, including the full name and primary address of the prospective true buyer (as distinguished from agents or intermediaries). Declarant shall have thirty (30) days after the presentation of such notice of said bonafide contract to Declarant to exercise the within purchase option. If Declarant does not exercise its option to purchase the Unit during this period, the record owner may freely convey the Unit to the subject offeror. Should, however, such sale to a third party not be consummated within four (4) months of the date the offer is transmitted to Declarant at the price and on the terms certified, the terms and limitations of this section shall again be imposed upon any sale by Owner. If Declarant shall elect to purchase such property, the transaction shall be consummated on the terms offered; provided, however, Declarant shall have a minimum of thirty (30) days from the delivery of notice to consummate the transaction.

ARTICLE XIV
AMENDMENT OF DECLARATION

14.1. **Declarant**. Until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration for any purpose, provided the amendment has no materially adverse effect upon any material rights of any affected Owner. Thereafter, Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, regulation or judicial determination which is in conflict therewith, (ii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Properties, or (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including,

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units, or (iv) to satisfy the requirements of any governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as Declarant still owns property described in Exhibits "A" or "B" for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

14.2. **By Members**. Except as otherwise set forth elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing fifty-one percent (51%) of the total Class "A" votes in the Association, including fifty-one percent (51%) of the Class "A" votes held by Members other than Declarant, and the consent of Declarant, so long as Declarant has an option to subject additional property to this Declaration pursuant to Section 9.1. In addition, the approval requirements set forth in Article XVI hereof shall be met if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

14.3. **Validity and Effective Date of Amendments**. Amendments to this Declaration shall become effective upon recordation in the Official Records of Beaufort County, South Carolina, unless a later effective date is specified herein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may, directly or indirectly, remove, revoke or modify the status of, or any right or privilege of, the Declarant or the Class "B" Member without the written consent of the Declarant. Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

14.4. **Exhibits**. Exhibits "A", "B", "C", "D", "E" and "F" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article, except as otherwise specifically provided in this Declaration. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

Westbury Record on Appeal 0249

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Covenants, Conditions and Restrictions as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

PLANTATION PROPERTIES, L.L.C., a South Carolina Limited Liability Company

By: _____
James N. Richardson, Jr.
Its: Managing Member

Westbury Record on Appeal 0250

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

The undersigned notary public does hereby certify that James N. Richardson, Jr., as Managing Member of Plantation Properties, L.L.C., a South Carolina Limited Liability Company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 29th day of December, 1998.

Notary Public for South Carolina
My commission expires: Oct 19, 2003

St.2\disk#7\westbury.cov-12/24/98

Westbury Record on Appeal 0251

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "A"

Land Initially Submitted

ALL that certain piece, parcel or tract of land situate, lying and being in Beaufort County, South Carolina, containing approximately 30.838 acres and shown as "Phase I" on a plat entitled "A Plat of Phase I, Westbury Park, Beaufort County, South Carolina" prepared for Plantation Properties, L.L.C. dated December 9, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 68, page 33. For a more detailed description of said property, reference may be had to said plat of record.

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "B"

Land Subject to Annexation

ALL that certain piece, parcel or tract of land situate, lying and being in Beaufort County, South Carolina, shown as 128.973 acres on a plat entitled "A Plat of Block X-1, X-2, X-3 and X-4 Being a Portion of Block 'X'" and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 58, page 198.

SAVING AND EXCEPTING THEREFROM THE FOLLOWING:

ALL that certain piece, parcel or tract of land situate, lying and being in Beaufort County, South Carolina, containing approximately 30.838 acres and shown as "Phase I" on a plat entitled "A Plat of Phase I, Westbury Park, Beaufort County, South Carolina" prepared for Plantation Properties, L.L.C. dated December 9, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 68, page 33. For a more detailed description of said property, reference may be had to said plat of record.

AND SAVING AND EXCEPTING THEREFROM THE FOLLOWING"

ALL that certain piece, parcel or tract of land lying and being in Bluffton Township, Beaufort County, South Carolina, containing 20.00 acres, more or less, shown and described on that certain plat entitled "ALTA/ASCM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998, revised on October 28, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 67, page 118. For a more detailed description of said property, reference may be had to said plat of record.

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "C"

Initial Use Restrictions and Rules

Westbury Record on Appeal 0254

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "C"

INITIAL USE RESTRICTIONS AND RULES

The following rules and restrictions shall apply to the property described on Exhibit "A" of the Declaration of Covenants, Conditions, Restrictions and Easements for Westbury Park dated December 29, 1998, as may be amended (the "Property" and "Declaration") to which these Initial Use Restrictions and Rules are attached and shall apply until such time as they are amended, modified, repealed or limited by rules of the Westbury Park Residential Association, Inc. ("Association").

1. **General**. The Property shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or sales office for any real estate broker retained by Plantation Properties, L.L.C. ("Developer") to assist in the sale of property within the Property, office for any property manager retained by the Association or business offices for Developer or the Association consistent with this Declaration and any Supplemental Declaration).

2. **Restricted Activities.** The following activities are restricted within the Property unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors of the Association ("Board of Directors"):

(a) Parking of more than two vehicles per lot or home on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, boats, trailers, or stored or inoperable vehicles in places other than enclosed garages; provided, the Board may adopt reasonable regulations regarding guest and commercial parking;

(b) Raising, breeding, or keeping animals, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a home subject to such additional rules as may be adopted for the Property or any portion thereof, which rules may prohibit all pets or specific types of animals. Any pet that the Board in its sole discretion determines to be a nuisance shall be removed from the home upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet;

(c) Any activity or condition that interferes with the reasonable enjoyment of any part of the Property or that detracts from the overall appearance of the Property;

(d) Subdivision of a lot into two or more lots, or changing the boundary lines of any lot after a subdivision plat including such lot has been approved and filed in the Official Records of Beaufort County, South Carolina, except that Developer, and any person or entity expressly authorized in writing by Developer, shall be permitted to subdivide or replat lots which it owns;

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(e) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(f) Occupancy of a home by more than two persons per bedroom in the Unit. For purposes of this provision "occupancy" shall be defined as staying overnight in the home more than 30 days in any six-month period;

(g) Conducting, participating in, or holding of any events, functions or programs that involve games of chance, raffles, gambling, wagering, betting, or similar activities where the participants pay money or give other valuable consideration for the opportunity to receive monetary or other valuable consideration; provided, however, that the foregoing is not included to bar the occasional use of the interior of a residential dwelling on the Property for the activities described in this subparagraph (h) so long as such use is either; (x) in conjunction with fund-raising activities for a non-profit or charitable organization, or (y) is a private, social, non-commercial activity;

(h) Any business, trade, or similar activity, except as provided in Paragraph 3 and except that an Owner or occupant residing in a home may conduct "discrete business activities" within the home so long as the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the home; the business activity does not involve regular visitation of the home or door-to-door solicitation of residents of the Property; and the business activity is consistent with the residential character of the Property and does not violate these Use Restrictions and Rules. Examples of "discrete business activities" include, but are not limited to, computer-based telecommunications and literary, artistic, or craft activities. The Board may restrict any business activities that it determines interfere with the enjoyment or residential purpose of the Property in its sole and absolute discretion.

The leasing of a home in accordance with these Use Restrictions and Rules shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Developer or a Builder approved by Developer with respect to its development and sale of the Property or its use of any lots or homes which it owns within the Property, including the operation of a timeshare or similar program.

Garage sales, rummage sales, or similar sale not exceeding two consecutive days in duration will not be considered a business or trade, within the meaning of this subparagraph 2(i) so long as the Owners or occupants of a Unit do not hold, sponsor or participate in more than one such sale within the Property in any 12 month period.

Notwithstanding anything to the contrary in this Declaration, Developer may utilize a home as a show house or model home. Furthermore, Developer and any approved Builder may utilize a Unit as a sales office for homes being constructed within the Property; and

(i) Any modifications to existing construction or landscaping, or exterior additions to homes except as provided in Article IV.

Westbury Record on Appeal 0256

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

3. **Prohibited Conditions.** The following shall be prohibited within the Property:

(a) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the lot or home rotates among participants in the program fixed or floating time schedule over a period of years, except that Developer and its assigns may operate such a program with respect to lots or homes which it owns;

(b) Exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind unless completely contained within the dwelling of the home so as not to be visible from outside the dwelling or unless otherwise approved pursuant to Article IV, except that one such apparatus measuring no more than 24 inches in diameter may be placed on a lot unless the Board of Directors disapproves or the reviewing entity under Article IV determines that the apparatus is aesthetically incompatible with the surrounding structure or environment. No such structure shall be placed in the "Front Facade Zone." As such term is defined in the Design Guidelines, extend above the ridge line of any roof, or be visible from any street.

Developer and the Association have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Property.

4. **Leasing of Homes.** "Leasing" for purposes of this Declaration, is defined s regular, exclusive occupancy of a home by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Except as otherwise provided in any applicable Supplemental Declaration or other applicable covenants. Homes may be leased in their entirety, or a garage apartment that is separate from the primary dwelling on a lot may be leased; however, no single rooms or other fraction or portion of a home may be leased, nor shall any home or portion thereof be used for operation of a boarding house, "Bed and Breakfast" establishment, or similar accommodation for transient tenants.

Except for leases of garage apartments or as may otherwise be permitted by any applicable Supplemental Declaration, all leases shall be for an initial term of no less than one year, except with the prior written consent of the Board. Leases of garage apartments shall be for an initial term of no less than three months, and such garage apartments or homes shall not be leased to more than two separate tenants in any 12 month period.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations. There shall be no subleasing or assignment of any lease unless prior written approval is obtained from the Board of Directors or its designated administrator.

Westbury Record on Appeal 0257

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

5. **Signs.** The following restrictions on signs shall apply to all lots within the Property unless otherwise stated or unless otherwise approved by the Board of Directors. All signs must meet the guidelines adopted by the Board of Directors.

(a) Each lot may have posted, prior to initial occupancy of the home, a sign setting forth the Owner's name and the name of the architect and builder of the home and, in the case of a lot or home owned by Developer or a Builder approved by Developer, a sign indicating that the lot or home is available for sale; provided, any such signs shall be removed at the time of initial occupancy.

(b) Except as provided in Paragraph 6(a) above, no "for sale" or "for lease" signs may be posted on a lot or home. An "open house" sign indicating that the Owner is hosting such an event may be posted on the lot for a period not to exceed three continuous days.

(c) One sign not exceeding 18" x 24" containing political or similar endorsements may be posted on a lot. Such sign may only be posted for 45 days prior to an election or a vote on a referendum and for two days thereafter.

(d) Developer may post "model home" or similar signs on a lot containing model homes open to the public prior to initial occupancy of the homes.

(e) A lot within a Home Business Neighborhood, as described in Paragraph 3 above, may be identified with one sign not to exceed 24" by 36."

(f) No other signs, except those required by law, including posters, circulars, and billboards, may be posted on any lot so as to be visible from outside the home; provided, however, Developer shall be entitled to post signs without Board approval.

6. **Window Coverings.**

(a) Unless the Board of Directors otherwise agrees, the only acceptable window coverings that may be affixed to the interior of any windows visible from any street, alley or other portion of the Property are drapes, blinds, shades, shutters and curtains. The side of such window coverings that is visible from the exterior of any improvements must be white or off-white in color.

(b) No window tinting or reflective coating may be affixed to any window that is visible from any street, alley or other portion of the Property, without the prior approval of Developer (or the Board of Directors, if Developer hereafter elects to delegate such approval responsibility to the Association). No mirrored coatings will be permitted.

Westbury Record on Appeal 0258

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "D"

Rules of Arbitration

The rules and procedures contained in the Uniform Arbitration Act as adopted by the State of South Carolina and codified in the Code of Laws of South Carolina, 1976, §15-48-10. et seq., as may be amended from time to time.

Westbury Record on Appeal 0259

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "E"

Bylaws of Westbury Park Residential Owners Association, Inc.

Westbury Record on Appeal 0260

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BY-LAWS

OF

WESTBURY PARK RESIDENTIAL OWNERS ASSOCIATION, INC.

Article I
Name, Principal Office, Definitions

1.1 Name. The name of the Association shall be Westbury Park Residential Owners Association, Inc., (hereinafter referred to as the "Association").

1.2 Principal Office. The principal office of the Association shall be located in Beaufort County, South Carolina. The Association may have such other offices, either within or outside the State of South Carolina, as the Board of Directors may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Westbury Park Residential Properties filed in the Office of the Register of Mesne Conveyances of Beaufort County, South Carolina (the "Declaration"), unless the context indicates otherwise.

Article II
Membership and Meetings

2.1 Membership. The Association shall have two classes of membership, Class "A" and Class "B" as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designed by the Board either within the Properties or as convenient as possible and practical.

2.3 Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Meetings shall be of the Members. Subsequent regular annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4 Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Owners or Members representing at least 25% of the total

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Class "A" votes of the Association. Signatures on any such petition may be filed by facsimile transmission or other electronic means provided that the signature clearly acknowledges the substantive content or purpose of the petition.

2.5 Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Members shall be delivered, either personally, or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the President or the Secretary or the officer or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes of which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage prepaid.

2.6 Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raided before the business is put to a vote.

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because of quorum is not present, a majority of the Members who are present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough to leave less than a quorum, provided that Members representing at least 25% of the total Class "A" votes in the Association remain in attendance, and provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8 Voting. The voting rights of the Members shall be set forth in the Declarations, and such voting rights provisions are specifically incorporated by reference.

Westbury Record on Appeal 0262

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

2.9 Proxies. On any matter as to which an Owner is entitled to personally cast the vote for his Unit, such vote may be cast in person or by proxy, subject to limitations of South Carolina law relating to use of general proxies and subject to any specific provisions to the contrary in the Declaration of these By-Laws. No proxy shall be valid unless signed by the Owner of the Unit for which it is given or his duly authorized attorney-in-fact, dated and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Proxies shall be valid only for the specific meeting for which given and lawful adjournments of such meeting. In no event shall a proxy be valid more than 90 days after the date of the original meeting for which it was given. Every proxy shall be revocable and shall automatically cease upon conveyance of the Unit for which it was given.

2.10 Majority. As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible Members.

2.11 Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the present of the Members representing 25% of the total Class "A" votes in the Association and the presence of a duly appointed representative of the Class "B" Member shall constitute a quorum at all meetings of the Association.

2.12 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of South Carolina. Such consent shall be filed with the minutes of the Association, and shall have the same force and effect as a vote of the Members at the meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

Article III
Board of Directors

A. Composition and Selection.

3.1 Governing Body Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. The Board of Directors shall

Westbury Record on Appeal 0263

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

have the authority to delegate any of its duties to agents, employees, or others; provided, however, in the event of such delegation, the Board of Directors shall remain responsible for any action undertaken by such delegate. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of a Member which is not a natural; person, any officer, director, partner or trust officer of such member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2 Number of Directors. The number of directors in the Association shall be not less than three nor more than seven, as provided in Section 3.5. The initial Board shall consist of three directors as identified in the Articles of Incorporation.

3.3 Directors During Class "B" Control Period. Subject to the provisions of Section 3.5, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the termination of the Class "B" Control Period as defined in Section 6.3(b) of the Declaration.

3.4 Nomination and Election Procedures.

(a) Nominations and Declarations of Candidacy. Prior to each election of directors, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each and every eligible person who has a bona-fide interest in serving as a director may file as a candidate for any position to be filed by votes of Class "A" Members. The Board shall also establish such other rules and regulations as it deems appropriate to conduct the nomination of directors in a fair, efficient and cost-effective manner.

Except with respect to directors selected by the Class "B" Member, nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairman, who shall be a member of the Board, and three or more Members or representatives of Members. The Nominating Committee shall be appointed by the Board not less than 30 days prior to each election to serve until their successors are appointed, and such appointment shall be announced in the notice of each election.

The Nominating Committee may make as many as nominations for election to the Board as it shall in its discretion determine. The Nominating Committee shall nominate separate slates for the directors, if any, to be elected at large by all Class "A" Members. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Each candidate shall be given a reasonable, uniform opportunity to communicate his or her qualifications to the Members and to solicit votes.

Westbury Record on Appeal 0264

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(b) Election Procedures. All elections shall be held by mail. The Secretary shall cause notice of the elections to be mailed or delivered to each Owner at least 10 days prior to the closing date established by the Board for filing ballots. Such notice shall be accompanied by a written ballot listing all candidates for each vacancy who have qualified in accordance with the procedures described in subsection (a) above, and all candidates for each vacancy nominated by the Nominating Committee, if any. The notice shall specify the name and address to which the ballots should be returned and the date by which they must be received in order to be counted, which date shall be "election date."

Each Owner may cast the entire vote assigned to his Unit for each position to be filed from the state of candidates on which such Owner is entitled to vote. There shall be no cumulative voting.

On the election date, the Board or its designee shall open and count the ballots. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5 Election and Term of Office. Notwithstanding any other provision of these By-Laws;

(a) Within 30 days after the time that Class "A" Members other than Builders own 25% of the Units proposed by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the President shall call for an election by which the Class "A" Members shall be entitled to elect one of the three directors, who shall be an at-large director. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Voting Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (b), whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b), a successor shall be elected for a like term.

(b) Within 30 days after the time that Class "A" Members other than Builders own 50% of the Units proposed by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the Board shall be increased to five directors. The President shall call for an election by which the Class "A" Members shall be entitled to elect two of the five directors, who shall serve as at-large directors. The remaining three directors shall be appointees of the Class "B" Member. The directors elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such director's terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Within 90 days after termination of the Class "B" Control Period, the President shall call for an election by which the Class "A" Member shall be entitled to elect three of the five directors, who shall serve as at-large directors. The remaining two directors shall be

Westbury Record on Appeal 0265

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

appointees of the Class "B" Member. The directors elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting is scheduled to occur within 90 days after termination of the Class "B" Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (d) below.

(d) Not later than the first annual meeting after the termination of the Class "B" Control Period, the Board shall be increased to seven directors and an election shall be held. Six directors shall be elected by the Class "A" Members, with an equal number of directors elected from each Village and any remaining directorship filled at large by the vote of all Class "A" Members. Three directors shall serve a term of two years and three directors shall serve a term of one year, as such directors determine among themselves. Upon the expiration of each director's term of office the Members entitled to elect such director shall be entitled to elect a successor to serve a term of two years.

Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one director. Upon termination of the Class "B" membership, the director elected by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve the unexpired portion of the term. Thereafter, the Class "A" Members shall be entitled to elect a successor to fill such position.

The directors elected by the Class "A" Member shall hold office until their respective successors have been elected.

3.6 Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by the vote of Class "A" Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Class "A" Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the board to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director elected by the Class "A" Members, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time a Class "A" Members entitled to fill such directorship may elect a successor for the remainder of the term.

The Section shall not apply to directors appointed by the Class "B" Member. The Class "B" Member shall be entitled to appoint a successor to fill any vacancy on the Board resulting

Westbury Record on Appeal 0266

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member.

B. Meetings.

3.7 Organizational Meetings. The first meeting of the Board following each annual meeting of the membership shall be held within 10 days thereafter at such time and place the Board shall fix.

3.8 Regular Meetings. Regular meetings of the Board may be held at such time and place a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.9 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or by any two directors.

3.10 Notice; Waiver of Notice.

(a) Notices of meetings of the Board shall specify the time and place of the meeting and in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by: (i) personal delivery, (ii) first class mail, postage prepaid: (iii) telephone communication either director to the director or to a persons at the director's office or home who would reasonably be expected to communicate such notice promptly to the director: or (iv) telephone facsimile, computer, fiber optics or other electronic communications device, with confirmation of transmission.

All such notices shall be given at the director's telephone number, fax number, electronic mail number, or sent to the director's address as shown on the records of the Association. Notices of special meetings of the Board shall also be posted in a prominent place within the Properties. Notices sent by first class mail shall be deposited into a United States mailbox at least four business days before the time set for the meeting. Notices given by personal delivery, telephone, or other devices shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Telephonic Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons

Westbury Record on Appeal 0267

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.12 Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum of the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum of that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called by be transacted without further notice.

3.13 Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of the majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested director.

3.14 Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.15 Open Meetings. Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Members and, if required by law, all Owners, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any such individual may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and exclude persons other than directors, to discuss matters of a sensitive matter, such as pending or threatened litigation personnel matters, etc.

3.16 Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

Westbury Record on Appeal 0268

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

C. Powers and Duties.

3.17 Powers. The Board of Directors shall have all of the powers and duties necessary for the administrations of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these By-Laws, the Articles, these By-Laws, or South Carolina law do not direct to be done and exercised exclusively by the Voting Member or the membership generally.

3.18 Duties. The duties of the Board shall include, without limitation;

(a) preparation and adoption of annual budgets establishing each Owner's share of the Common Expenses and Service Area Expenses;

(b) carrying out those duties and responsibilities authorized in the Declaration;

(c) providing for the operation, care, upkeep and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association provided, any reserve fund may be deposited, in the director's best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatures required;

(h) making or contracting for the making of repairs, additions and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall be obligated to take action to enforce any covenant, restriction or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;

(j) obtaining and carrying insurance, as provided in the Declaration, providing for payment of all premiums and filing and adjusting claims, ans appropriate;

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to an prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules and all other books, records, and financial statements of the Association;

(n) permitting utility suppliers to use portions of the Common Area as may be determined necessary, in the sole discretion of the Board, to the ongoing development or operation of the Properties;

(o) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by South Carolina law the Articles of Incorporation or the Declaration;

(p) cooperating with the members in upholding the Community-Wide standard; and

(q) assisting in the resolution of disputes between owners and others without litigation as set forth in the Declaration.

3.19 Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of Plantation Properties, L.L.C. or Builders under the Declaration of these By-Laws, or interfere with development, construction of any portion of the Properties, or diminish the level of service being provided by the Association;

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions, approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Section 3.8, 3.9, and 3.10 and which notice shall except in the case of the regular meetings held pursuant to the By-Laws set forth with reasonable particularity the agenda to be followed at such meeting; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

Westbury Record on Appeal 0270

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditures required to comply with applicable laws and regulations.

3.20 Management. The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board of Directors may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policymaking authority or those duties set forth in subparagraphs (a), (f), (i), (j), (n) and (o) of Section 3.18. The Plantation Properties, L.L.C., or an affiliate of Plantation Properties, L.L.C. may be employed as managing agent or manger.

The Board of Directors may delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Class "B" Control Period, unless such contract contains a right of termination exercisable by the Association, with or without cause and without penalty, at any time after termination of the Class "B" Control Period upon not more than 90 days written notice.

3.21 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise;

(a) accrual accounting, as defined by generally accepted accounting principals, shall be employed;

(b) accounting and control should conform to generally accepted accounting principals;

(c) cash accounts of the Association shall not be commingled with any other accounts;

Westbury Record on Appeal 0271

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(d) no renumeration shall be accepted by the managing agent from vendors, independent contractors or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts or otherwise; anything of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the year in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expenses activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution).

(g) an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year (1) a balance sheet, (2) an operating (income) statement, and (3) a statement of changes in financial position for the fiscal year.

3.22 Borrowing. The Association shall have the power to borrow money from any legal purposes; provided, the Board shall obtain Member approval in the same manner provided in Section 8.4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt outstanding exceeds or would exceed 20% of the budgeted gross expenses of the Association for that fiscal year.

3.23 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational or other agreements with the Westbury Park Commercial Property Owners Association, Inc., and other owners or residents

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

associations within and outside the Properties; provided, any common management agreement shall require the consent of a majority of the total number of directors of the Association.

3.24 Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose monetary fines which shall constitute a lien upon the Unit of the violator and to suspend an Owner's right to vote or any person's right to use the Common Area for violation of any duty imposed under the Declaration, these Bylaws or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Board to limit ingress and egress to or from a Unit or to suspend an Owner's right to vote due to nonpayment of assessments. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, guest or invitee of a Unit violates the Declaration, Bylaws or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, Bylaws or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if any, appointed pursuant to Article V, and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided, the Board or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10 day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Covenants Committee or if none has been appointed, then before the Board in executive session. The alleged violation shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by officer, director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President or Secretary of the Association within 10 days after the hearing date.

Westbury Record on Appeal 0273

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Bylaws or the rules of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or, following compliance with the procedures set forth in Article XIV of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

Article IV
Officers

4.1 Officers. The officers of the Association shall be a President, Vice-President, Secretary and Treasurer. Officers may, but need not, be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Voting Members.

4.3 Removal and Vacancies. The Board may remove any officer whenever, in its best judgment, the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal or otherwise for the unexpired portion of the term.

4.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically bo conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent or both.

4.5 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.

Westbury Record on Appeal 0274

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Article V
Committees

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and functions as the board may designate by resolution. Committee members serve at the Board's discretion for such periods as the Board may designate by resolution; provided, however, any committee member, including committee chair, may be removed by the vote of a majority of the Board. Each committee shall operate in accordance with the terms of the resolution establishing such committee.

5.2 Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these Bylaws and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these Bylaws.

Article VI
Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be the same as the fiscal year adopted by the Declarant.

6.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with South Carolina law, the Articles of Incorporation, the Declaration or these Bylaws.

6.3 Conflicts. If there are conflicts between the provisions of South Carolina law, the Articles of Incorporation, the Declaration and these Bylaws, the provisions of South Carolina law, the Declaration, the Articles of Incorporation and the Bylaws (in that order) shall prevail.

6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any member or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, Bylaws and Articles of Incorporation, including any amendments, the rules of the Association, the membership register, books of account and the minutes of meetings of the Members, the Board and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish rules with respect to:

(i) notice to be given to the custodian of the records;

Westbury Record on Appeal 0275

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5 Notices Unless otherwise provided in these Bylaws, all notices, demands, bills, statements or other communications under these bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6 Amendment

(a) By Class "B" Member. Until termination of the Class "B" Control Period, the Class "B" Member may unilaterally amend these Bylaws. Thereafter, the Class "B" Member may unilaterally amend these Bylaws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation or judicial determination, (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units, (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Units, or (iv) to enable any governmental agency or reputable private insurance company to guarantee or insure mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these Bylaws for any other purpose provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 51% of the total Class "A" votes in the Association and the consent of the Class "B" Member, as long as such membership exists. In addition, the approval requirements set forth in Article XVI of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes

Westbury Record on Appeal 0276

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action bo be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these Bylaws shall become effective upon recordation in the Official Records of Beaufort County, South Carolina, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

If an Owner consents to any amendment to the Declaration or these Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of Plantation Properties, L.L.C., Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, or the assignee of such right of privilege.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Westbury Park Residential Owners Association, Inc., a South Carolina corporation;

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 28th day of December, 1998.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 28th day of December, 1998.

_____[SEAL]
Secretary

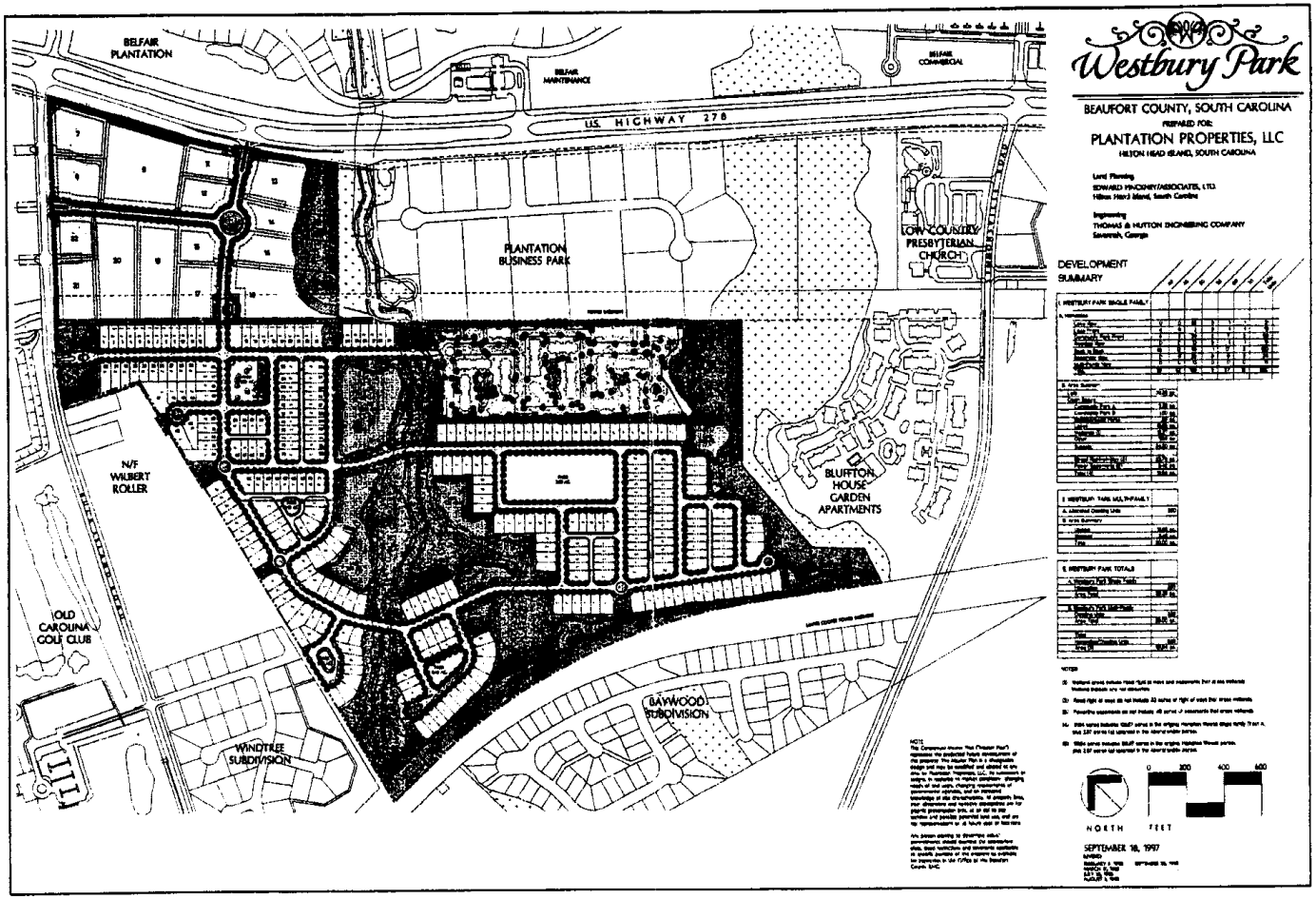
st.2-a:\disk#9\bylaws.wb

Westbury Record on Appeal 0277

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "F"

Master Plan



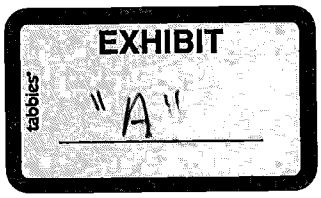
Westbury Record on Appeal 0279

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

JS+P 43238
FILED
JOHN A. SULLIVAN - RMC
BEAUFORT COUNTY, S.C.
98 DEC 30 PM 2:22
BK 1122 PG 285
FOLDER#

358

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



ELECTRONICALLY FILED - 2020 Mar 18 12:22 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158
ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ESTATE PAYMENT DIVISION AGREEMENT AND ASSIGNMENT

THIS ESTATE PAYMENT DIVISION AGREEMENT AND ASSIGNMENT is made and entered into this ____ day of _____, 2015, among Plantation Properties, LLC (hereinafter "PPLLC"), Westbury Park Residential Association, Inc. (hereinafter "ROA") and Westbury Park Commercial Center Property Owners' Association, Inc. (hereinafter "COA").

AGREEMENT

WHEREAS, on November 1, 2005, PPLLC entered into an "Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park" with Montecito Westbury, LLC, pursuant to which certain assessment funds are paid to PPLLC on a monthly basis in connection with the Estate at Westbury Park condominiums (the "Estate Funds"), which is incorporated herein by reference and referred to as the "Estate Agreement;" and,

WHEREAS, PPLLC does agree that beginning on August 1, 2015 to relinquish any rights that it may have to the Estate Funds and assign such Estate Funds to the ROA and COA; and,

WHEREAS, the COA agrees not to pursue, by lawsuit or other means, PPLLC for any Estate Funds paid to PPLLC prior to August 1, 2015; and,

WHEREAS, the ROA and COA have entered into an agreement as to the division of the Estate Funds between them, whereby beginning on August 1, 2015 the Estate Funds are to be divided 80% to the ROA and 20% to the COA; and,

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 Dollars ($10.00) paid in hand by the ROA and COA to PPLLC, the receipt and sufficiency whereof is hereby acknowledged, PPLLC does, hereby assign, set over, transfer and convey to the ROA and COA, and their respective successors and assigns: a) all of PPLLC's rights, title and interest in and to the Estate Agreement; and b) all of PPLLC's rights, title and interest in and to the Estate Funds.

The ROA and the COA agree that the Estate Funds will be divided between them as follows: ROA: eighty percent (80%); COA: twenty percent (20%). The Estate Funds will be paid to the ROA which will remit the COA's portion of the funds within twenty (20) days of receipt of the same. The ROA shall not charge any administration fee for its collection and handling of the Estate Funds; provided, however, if legal action is necessary to collect the Estate Funds, the costs of collection shall be prorated and deducted from the Estate Funds. The ROA and COA agree to cooperate with each other in any required collection efforts regarding the Estate Funds.

IN WITNESS WHEREOF, the undersigned have executed this document as of the day and year first above written.

WITNESSES:

WITNESSES:

WITNESSES:

PLANTATION PROPERTIES, LLC

By: _____
James N. Richardson, Jr.
Managing Member

WESTBURY PARK RESIDENTIAL ASSOCIATION, INC.

By: _____
Pete Popovich
President

WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS' ASSOCIATION, INC.

By: _____
Richard L. Boeke
President

ELECTRONICALLY FILED - 2020 Mar 18 12:22 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158
ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

IN WITNESS WHEREOF, the undersigned have executed this document as of the day and year first above written.

WITNESSES:

PLANTATION PROPERTIES, LLC

By:_____
James N. Richardson, Jr.
Managing Member

WITNESSES:

WESTBURY PARK RESIDENTIAL ASSOCIATION, INC.

By:_____
Pete Popovich
President

WITNESSES:

Brooke Boeke

Stephanie Metz

WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS' ASSOCIATION, INC.

By: Richard L Boeke
Richard L. Boeke
President

ELECTRONICALLY FILED - 2020 Mar 18 12:22 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158
ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BEAUFORT COUNTY SC - ROD
BK 3709 Pgs 3041-3047
FILE NUM 2018057667
10/23/2018 04:34:22 PM
RCPT# 909791
RECORDING FEES 13.00

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Prepared By and Without Benefit of Title Examination:
FINGER, MELNICK & BROOKS, P.A.
Post Office Box 24005
Hilton Head Island, South Carolina 29925
(843) 681-7000

STATE OF SOUTH CAROLINA	)	NOTICE OF EXTENSION OF THE
	)	DECLARATION OF COVENANTS,
	)	CONDITIONS, RESTRICTIONS, AND
	)	EASEMENTS FOR PALMETTO LAKES
	)	APARTMENTS AT WESTBURY PARK
	)	(Record Book 1106 at Page 1225)
COUNTY OF BEAUFORT	)	(Record Book 2269 at Page 1997)

THIS NOTICE OF EXTENSION OF THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PALMETTO LAKES APARTMENTS AT WESTBURY PARK (herein, the "***Notice***") is made this 23rd day of October, 2018, by WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation (herein, the "***Association***").

WITNESSETH

WHEREAS, on November 10, 1998, Plantation Properties, LLC (herein, the "***Declarant***") made and executed that *Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park*, which was recorded on November 12, 1998, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Record Book 1106 at Page 1225, as amended by that certain *Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments as Westbury Park*, dated November 1, 2005, which was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Record Book 2269 at Page 1997; (herein collectively, the "***Declaration***"); and,

WHEREAS, according to Section 8.01 of the Declaration, the fee owner of the Property identified in Exhibit A to the Declaration is obligated to pay the Declarant, or its successors and assigns, an annual assessment for "[the Owner's] share of the costs for maintenance of the Required Streets and landscaping along the Required Streets and around and within parks within the Westbury Park Residential Area and the Westbury Park Commercial Area"; and,

WHEREAS, according to Section 9.01 of the Declaration, "[t]his Declaration, every provision hereof and every covenant, condition, and restriction contained herein shall continue in full force and effect for a period of twenty (20) years from and after the date of recording, provided that the rights and easements which are stated herein to have a longer duration shall have such longer duration"; and,

WHEREAS, Section 9.01 of the Declaration states that "[t]his Declaration may be renewed for an unlimited number of successive ten (10) year periods by the Declarant, its successors or assigns filing a notice of extension with the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, prior to the expiration of any term"; and,

WHEREAS, by virtue of that certain *Estate Payment Division Agreement and Assignment* entered into between the Declarant, the Association and the Westbury Park Commercial Center Property Owners' Association, Inc., a true and correct copy of which is attached hereto as Exhibit "A" (the "***Estate's Declaration Assignment***"), the Declarant assigned its declarant rights under the Declaration to the Association in accordance with Section 9.03 of the Declaration; and,

WHEREAS, the Association, as successor-in-interest to the Declarant, desires to renew the term of the Declaration for another ten (10) years pursuant to Section 9.01 of the Declaration; and,

WHEREAS, this *Notice of Extension* is being executed and recorded with the Office of the Register of Deeds for Beaufort County, South Carolina, by the Association to reflect the Association's decision to renew the Declaration for an additional ten (10) years.

NOW, THEREFORE, pursuant to Section 9.01 of that certain *Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park*, as amended from time to time, Westbury Park Residential Association, Inc., as successor in interest to Plantation Properties, LLC, hereby gives notice that it is exercising its right to renew the term of the aforesaid Declaration, as amended, for an additional ten (10) year period and that upon the recording hereof, the term of the aforesaid Declaration, as amended, shall be renewed for an additional ten (10) year period.

{*Remainder of Page Intentionally Omitted. Signature Page(s) and Exhibit(s) to Follow.*}

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

SIGNED, SEALED and DELIVERED as of the first date above set forth.

WITNESSES:

First Witness

Second Witness / Notary Public

ASSOCIATION:
WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation

By: _____ (L.S.)
Name: Josh Hemmann
Title: Vice President

STATE OF PENNSYLVANIA)
)
COUNTY OF Lebanon)

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this 11th day of October, 2018, before me, the undersigned Notary Public of the State and County aforesaid, personally appeared JOSH HEMMANN as VICE PRESIDENT for WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation, known or satisfactorily proven to me to be the persons whose name is subscribed to the within instrument, who, on behalf of the corporation, acknowledged the execution thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

_____ (SEAL)
Second Witness/Notary Public for Pennsylvania
Notary Printed Name: Shelley L Derr
My Commission Expires: October 29, 2018

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
SHELLEY L. DERR, Notary Public
North Cornwall Twp., Lebanon County
My Commission Expires October 29, 2018

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

SIGNED, SEALED and DELIVERED as of the first date above set forth.

WITNESSES:

First Witness

Second Witness / Notary Public

ASSOCIATION:
WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation

Attest: _____ (L.S.)
Name: Stacey Sawyer
Title: Secretary

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this 22 day of October, 2018, before me, the undersigned Notary Public of the State and County aforesaid, personally appeared STACEY SAWYER as SECRETARY for WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation, known or satisfactorily proven to me to be the persons whose name is subscribed to the within instrument, who, on behalf of the corporation, acknowledged the execution thereof.

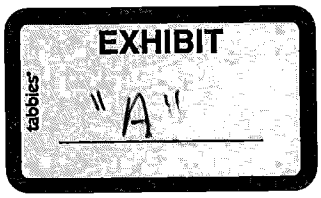
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

TASHA ARD
NOTARY PUBLIC
State of South Carolina
My Commission Expires May 22, 2023

_____ (SEAL)
Second Witness/Notary Public for South Carolina
Notary Printed Name: TASHA ARD
My Commission Expires: May 22, 2023

f:\client\v - z\westbury park res. association, inc\agreements\estates at westbury\notice of extension (erl.2).docx

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ESTATE PAYMENT DIVISION AGREEMENT AND ASSIGNMENT

THIS ESTATE PAYMENT DIVISION AGREEMENT AND ASSIGNMENT is made and entered into this ____ day of _____, 2015, among Plantation Properties, LLC (hereinafter "PPLLC"), Westbury Park Residential Association, Inc. (hereinafter "ROA") and Westbury Park Commercial Center Property Owners' Association, Inc. (hereinafter "COA").

AGREEMENT

WHEREAS, on November 1, 2005, PPLLC entered into an "Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park" with Montecito Westbury, LLC, pursuant to which certain assessment funds are paid to PPLLC on a monthly basis in connection with the Estate at Westbury Park condominiums (the "Estate Funds"), which is incorporated herein by reference and referred to as the "Estate Agreement;" and,

WHEREAS, PPLLC does agree that beginning on August 1, 2015 to relinquish any rights that it may have to the Estate Funds and assign such Estate Funds to the ROA and COA; and,

WHEREAS, the COA agrees not to pursue, by lawsuit or other means, PPLLC for any Estate Funds paid to PPLLC prior to August 1, 2015; and,

WHEREAS, the ROA and COA have entered into an agreement as to the division of the Estate Funds between them, whereby beginning on August 1, 2015 the Estate Funds are to be divided 80% to the ROA and 20% to the COA; and,

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 Dollars ($10.00) paid in hand by the ROA and COA to PPLLC, the receipt and sufficiency whereof is hereby acknowledged, PPLLC does, hereby assign, set over, transfer and convey to the ROA and COA, and their respective successors and assigns: a) all of PPLLC's rights, title and interest in and to the Estate Agreement; and b) all of PPLLC's rights, title and interest in and to the Estate Funds.

The ROA and the COA agree that the Estate Funds will be divided between them as follows: ROA: eighty percent (80%); COA: twenty percent (20%). The Estate Funds will be paid to the ROA which will remit the COA's portion of the funds within twenty (20) days of receipt of the same. The ROA shall not charge any administration fee for its collection and handling of the Estate Funds; provided, however, if legal action is necessary to collect the Estate Funds, the costs of collection shall be prorated and deducted from the Estate Funds. The ROA and COA agree to cooperate with each other in any required collection efforts regarding the Estate Funds.

IN WITNESS WHEREOF, the undersigned have executed this document as of the day and year first above written.

WITNESSES:

WITNESSES:

WITNESSES:

PLANTATION PROPERTIES, LLC

By: _____
James N. Richardson, Jr.
Managing Member

WESTBURY PARK RESIDENTIAL ASSOCIATION, INC.

By: _____
Pete Popovich
President

WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS' ASSOCIATION, INC.

By: _____
Richard L. Boeke
President

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

IN WITNESS WHEREOF, the undersigned have executed this document as of the day and year first above written.

WITNESSES:

PLANTATION PROPERTIES, LLC

By:_____
James N. Richardson, Jr.
Managing Member

WITNESSES:

WESTBURY PARK RESIDENTIAL ASSOCIATION, INC.

By:_____
Pete Popovich
President

WITNESSES:

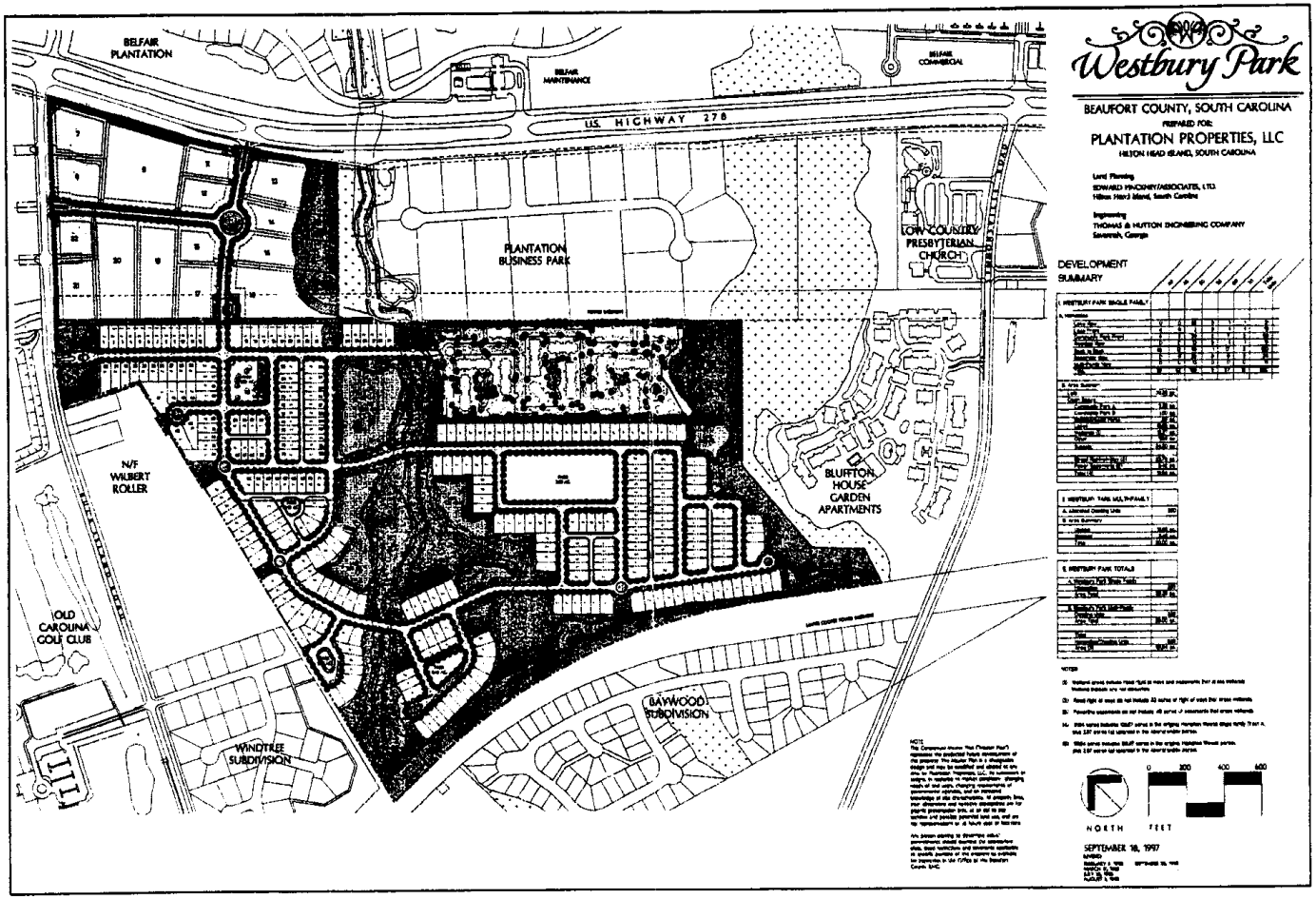
Brooke Boeke

Stephanie Metts

WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS' ASSOCIATION, INC.

By: Richard L Boeke
Richard L. Boeke
President

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

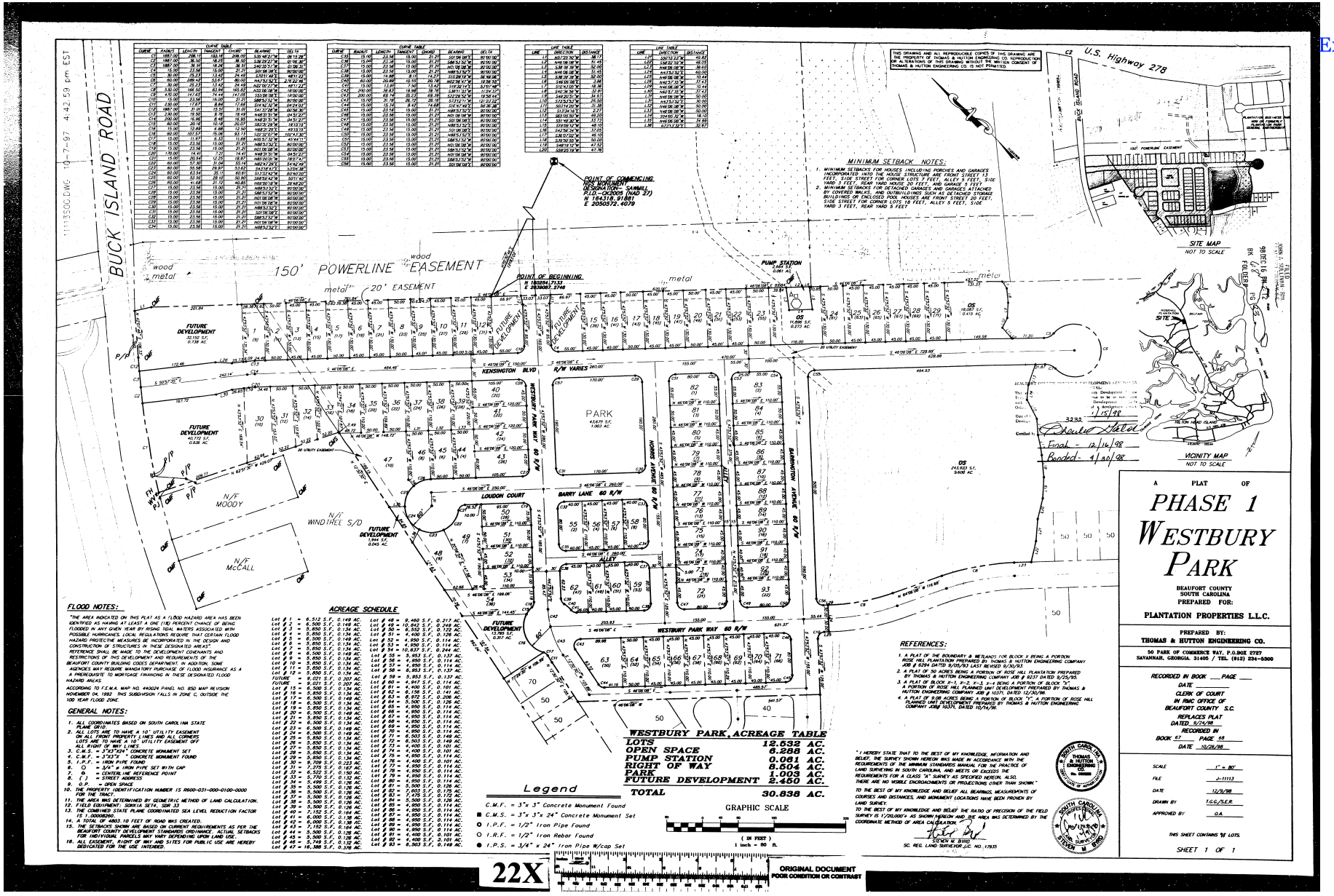


Westbury Record on Appeal 0291

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:56 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury Record on Appeal 0292
Exhibit 8



A PLAT OF
PHASE 1 WESTBURY PARK

BEAUFORT COUNTY
SOUTH CAROLINA
PREPARED FOR:

PLANTATION PROPERTIES L.L.C.

PREPARED BY:
THOMAS & HUTTON ENGINEERING CO.
50 PARK OF COMMERCE WAY. P.O.BOX 2727
SAVANNAH, GEORGIA. 31406 / TEL. (912) 234-5300

RECORDED IN BOOK ___ PAGE ___
DATE ___
CLERK OF COURT
IN RMC OFFICE OF
BEAUFORT COUNTY S.C.
REPLACES PLAT
DATED 9/24/98
RECORDED IN
BOOK 57 PAGE 68
DATE 10/26/98

SCALE 1" = 80'
FILE J-11113
DATE 12/9/98
DRAWN BY: T.G.G./S.E.R.
APPROVED BY: G.A.

THIS SHEET CONTAINS 1 LOTS.

SHEET 1 OF 1

WESTBURY PARK, ACREAGE TABLE

LOTS	12.532 AC.
OPEN SPACE	6.288 AC.
PUMP STATION	0.061 AC.
RIGHT OF WAY	6.504 AC.
PARK	1.003 AC.
FUTURE DEVELOPMENT	2.450 AC.
TOTAL	30.838 AC.

GRAPHIC SCALE
(IN FEET)
1 inch = 80 ft.

Legend
C.M.F. = 3"x 3" Concrete Monument Found
C.M.S. = 3"x 3"x 24" Concrete Monument Set
I.P.F. = 1/2" Iron Pipe Found
I.R.F. = 1/2" Iron Rebar Found
I.P.S. = 3/4" x 24" Iron Pipe W/cap Set

FLOOD NOTES:
"THE AREA INDICATED ON THIS PLAT AS A FLOOD HAZARD AREA HAS BEEN IDENTIFIED AS HAVING AT LEAST A ONE (1%) PERCENT CHANCE OF BEING FLOODED IN ANY GIVEN YEAR BY RISING TIDAL WATERS ASSOCIATED WITH POSSIBLE HURRICANES. LOCAL REGULATIONS REQUIRE THAT CERTAIN FLOOD HAZARD PROTECTIVE MEASURES BE INCORPORATED IN THE DESIGN AND CONSTRUCTION OF STRUCTURES IN THESE DESIGNATED AREAS". REFERENCE SHALL BE MADE TO THE DEVELOPMENT COVENANTS AND RESTRICTIONS OF THIS DEVELOPMENT AND REQUIREMENTS OF THE BEAUFORT COUNTY BUILDING CODES DEPARTMENT. IN ADDITION, SOME AGENCIES MAY REQUIRE MANDATORY PURCHASE OF FLOOD INSURANCE AS A PREREQUISITE TO MORTGAGE FINANCING IN THESE DESIGNATED FLOOD HAZARD AREAS.
ACCORDING TO F.E.M.A. MAP NO. 440029 PANEL NO. 0150 MAP REVISION NOVEMBER 04, 1992 THIS SUBDIVISION FALLS IN ZONE C, OUTSIDE THE 100 YEAR FLOOD ZONE.

GENERAL NOTES:
1. ALL COORDINATES BASED ON SOUTH CAROLINA STATE PLANE GRID.
2. ALL LOTS ARE TO HAVE A 10' UTILITY EASEMENT ON ALL FRONT PROPERTY LINES AND ALL CORNER LOTS ARE TO HAVE A 10' UTILITY EASEMENT OFF ALL RIGHT OF WAY LINES.
3. C.M.S. = 3"X3"X24" CONCRETE MONUMENT SET
4. C.M.F. = 3"X3" CONCRETE MONUMENT FOUND
5. I.P.F. = IRON PIPE FOUND
6. ○ = 3/4" x IRON PIPE SET WITH CAP
7. ⊕ = CENTERLINE REFERENCE POINT
8. ( ) = STREET ADDRESS
9. O.P. = OPEN SPACE
10. THE PROPERTY IDENTIFICATION NUMBER IS R600-031-000-0100-0000 FOR THE TRACT.
11. THE AREA WAS DETERMINED BY GEOMETRIC METHOD OF LAND CALCULATION.
12. FIELD EQUIPMENT: SOKKIA SET4, SDR 33
13. THE COMBINED STATE PLANE COORDINATED SEA LEVEL REDUCTION FACTOR IS 1.00006260.
14. A TOTAL OF 4803.10 FEET OF ROAD WAS CREATED.
15. THE SETBACKS SHOWN ARE BASED ON CURRENT REQUIREMENTS AS PER THE BEAUFORT COUNTY DEVELOPMENT STANDARDS ORDINANCE. ACTUAL SETBACKS FOR INDIVIDUAL PARCELS MAY VARY DEPENDING UPON LAND USE.
16. ALL EASEMENT, RIGHT OF WAY AND SITES FOR PUBLIC USE ARE HEREBY DEDICATED FOR THE USE INTENDED.

ACREAGE SCHEDULE
Lot # 1 = 6,512 S.F. 0.149 AC.
Lot # 2 = 5,850 S.F. 0.134 AC.
Lot # 3 = 5,850 S.F. 0.134 AC.
Lot # 4 = 6,500 S.F. 0.149 AC.
Lot # 5 = 5,850 S.F. 0.134 AC.
Lot # 6 = 5,850 S.F. 0.134 AC.
Lot # 7 = 5,850 S.F. 0.134 AC.
Lot # 8 = 5,850 S.F. 0.134 AC.
Lot # 9 = 5,850 S.F. 0.134 AC.
Lot # 10 = 5,850 S.F. 0.134 AC.
Lot # 11 = 5,850 S.F. 0.134 AC.
Lot # 12 = 5,850 S.F. 0.134 AC.
FUTURE = 9,021 S.F. 0.207 AC.
FUTURE = 9,021 S.F. 0.207 AC.
Lot # 13 = 5,850 S.F. 0.134 AC.
Lot # 14 = 5,850 S.F. 0.134 AC.
Lot # 15 = 5,850 S.F. 0.134 AC.
Lot # 16 = 5,850 S.F. 0.134 AC.
Lot # 17 = 5,850 S.F. 0.134 AC.
Lot # 18 = 6,500 S.F. 0.149 AC.
Lot # 19 = 5,850 S.F. 0.134 AC.
Lot # 20 = 6,500 S.F. 0.149 AC.
Lot # 21 = 5,850 S.F. 0.134 AC.
Lot # 22 = 6,500 S.F. 0.149 AC.
Lot # 23 = 6,500 S.F. 0.149 AC.
Lot # 24 = 6,500 S.F. 0.149 AC.
Lot # 25 = 5,850 S.F. 0.134 AC.
Lot # 26 = 5,850 S.F. 0.134 AC.
Lot # 27 = 5,850 S.F. 0.134 AC.
Lot # 28 = 5,850 S.F. 0.134 AC.
Lot # 29 = 5,850 S.F. 0.134 AC.
Lot # 30 = 9,709 S.F. 0.223 AC.
Lot # 31 = 7,152 S.F. 0.164 AC.
Lot # 32 = 6,522 S.F. 0.150 AC.
Lot # 33 = 5,500 S.F. 0.126 AC.
Lot # 34 = 5,500 S.F. 0.126 AC.
Lot # 35 = 5,500 S.F. 0.126 AC.
Lot # 36 = 5,500 S.F. 0.126 AC.
Lot # 37 = 7,152 S.F. 0.164 AC.
Lot # 38 = 5,500 S.F. 0.126 AC.
Lot # 39 = 5,500 S.F. 0.126 AC.
Lot # 40 = 6,000 S.F. 0.138 AC.
Lot # 41 = 7,152 S.F. 0.164 AC.
Lot # 42 = 6,000 S.F. 0.138 AC.
Lot # 43 = 5,500 S.F. 0.126 AC.
Lot # 44 = 5,500 S.F. 0.126 AC.
Lot # 45 = 5,500 S.F. 0.126 AC.
Lot # 46 = 5,748 S.F. 0.132 AC.
Lot # 47 = 16,388 S.F. 0.376 AC.
Lot # 48 = 9,460 S.F. 0.217 AC.
Lot # 49 = 10,240 S.F. 0.235 AC.
Lot # 50 = 6,552 S.F. 0.150 AC.
Lot # 51 = 4,950 S.F. 0.114 AC.
Lot # 52 = 4,950 S.F. 0.114 AC.
Lot # 53 = 4,950 S.F. 0.114 AC.
Lot # 54 = 10,637 S.F. 0.244 AC.
Lot # 55 = 5,953 S.F. 0.137 AC.
Lot # 56 = 4,950 S.F. 0.114 AC.
Lot # 57 = 4,950 S.F. 0.114 AC.
Lot # 58 = 6,953 S.F. 0.137 AC.
Lot # 59 = 8,953 S.F. 0.206 AC.
Lot # 60 = 4,947 S.F. 0.114 AC.
Lot # 61 = 4,950 S.F. 0.114 AC.
Lot # 62 = 6,156 S.F. 0.141 AC.
Lot # 63 = 8,972 S.F. 0.206 AC.
Lot # 64 = 5,304 S.F. 0.122 AC.
Lot # 65 = 4,950 S.F. 0.114 AC.
Lot # 66 = 4,950 S.F. 0.114 AC.
Lot # 67 = 4,950 S.F. 0.114 AC.
Lot # 68 = 4,950 S.F. 0.114 AC.
Lot # 69 = 6,453 S.F. 0.148 AC.
Lot # 70 = 6,503 S.F. 0.149 AC.
Lot # 71 = 4,950 S.F. 0.114 AC.
Lot # 72 = 4,950 S.F. 0.114 AC.
Lot # 73 = 4,950 S.F. 0.114 AC.
Lot # 74 = 4,950 S.F. 0.114 AC.
Lot # 75 = 4,400 S.F. 0.101 AC.
Lot # 76 = 4,400 S.F. 0.101 AC.
Lot # 77 = 4,400 S.F. 0.101 AC.
Lot # 78 = 4,950 S.F. 0.114 AC.
Lot # 79 = 4,950 S.F. 0.114 AC.
Lot # 80 = 4,950 S.F. 0.114 AC.
Lot # 81 = 4,950 S.F. 0.114 AC.
Lot # 82 = 4,950 S.F. 0.114 AC.
Lot # 83 = 4,950 S.F. 0.114 AC.
Lot # 84 = 4,950 S.F. 0.114 AC.
Lot # 85 = 4,950 S.F. 0.114 AC.
Lot # 86 = 4,950 S.F. 0.114 AC.
Lot # 87 = 4,950 S.F. 0.114 AC.
Lot # 88 = 4,950 S.F. 0.114 AC.
Lot # 89 = 4,950 S.F. 0.114 AC.
Lot # 90 = 4,950 S.F. 0.114 AC.
Lot # 91 = 4,950 S.F. 0.114 AC.
Lot # 92 = 4,950 S.F. 0.114 AC.
Lot # 93 = 6,503 S.F. 0.149 AC.

REFERENCES:
1. A PLAT OF THE BOUNDARY & WETLANDS FOR BLOCK X BEING A PORTION ROSE HILL PLANTATION PREPARED BY THOMAS & HUTTON ENGINEERING COMPANY JOB # 9294 DATED 9/05/93 LAST REVISED 9/30/93
2. A PLAT OF 50 ACRES BEING A PORTION OF ROSE HILL PLANTATION PREPARED BY THOMAS & HUTTON ENGINEERING COMPANY JOB # 9237 DATED 9/25/95.
3. A PLAT OF BLOCK X-1, X-2, X-3 X-4 BEING A PORTION OF BLOCK "X" A PORTION OF ROSE HILL PLANNED UNIT DEVELOPMENT PREPARED BY THOMAS & HUTTON ENGINEERING COMPANY JOB # 10371, DATED 12/20/96
4. A PLAT OF SUB ACRES BEING A PORTION OF BLOCK "X" A PORTION OF ROSE HILL PLANNED UNIT DEVELOPMENT PREPARED BY THOMAS & HUTTON ENGINEERING COMPANY JOB# 10371, DATED 10/24/98.

"I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED HEREON. ALSO, THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN."
TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL BEARINGS, MEASUREMENTS OF COURSES AND DISTANCES, AND MONUMENT LOCATIONS HAVE BEEN PROVEN BY LAND SURVEY.
TO THE BEST OF MY KNOWLEDGE AND BELIEF THE RATIO OF PRECISION OF THE FIELD SURVEY IS 1/20,000+ AS SHOWN HEREON AND THE AREA WAS DETERMINED BY THE COORDINATE METHOD OF AREA CALCULATION.

STEVEN E. ROSE
SC. REG. LAND SURVEYOR (LIC. NO. 17835

SOUTH CAROLINA PROFESSIONAL ENGINEER
THOMAS & HUTTON ENGINEERING
No. 00000
CERTIFICATE OF AUTHORIZATION

SOUTH CAROLINA PROFESSIONAL ENGINEER
STEVEN E. ROSE
No. 17835

22X

ORIGINAL DOCUMENT
POOR CONDITION OR CONTRAST

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	IN THE COURT OF COMMON PLEAS CIVIL CASE NO.: 2020-CP-07-00158
WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., Plaintiff/Counterclaim Defendant, v. ESTATE AT WESTBURY OWNERS ASSOCIATION, INC., Defendant/Counterclaim Plaintiff.	**MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION**

Defendant/Counterclaim Plaintiff Estate at Westbury Owners Association, Inc. ("Estate" or "Defendant") respectfully opposes Plaintiff's Motion for Temporary Injunction. Defendant's Motion for Partial Summary Judgment, and the memorandum and exhibits in support thereof, are incorporated herein.

Plaintiff cannot meet *any* of the required elements for a preliminary injunction because:

(1) Plaintiff will suffer *no* irreparable harm without the injunction. Indeed, the current situation has existed for many years. Plaintiff's motion itself was filed more than six months ago, in January 2020, and Plaintiff initially noticed the hearing for February 7, 2020. During the interim, the parties have functioned effectively.

(2) Plaintiff has *zero* likelihood of success on the merits. Plaintiff's legal claims are directly contrary to the underlying declarations and covenants; Defendant has fulfilled all of its responsibilities under the relevant documents; and Defendant does not have the lawful ability take many of actions the Plaintiff demands.

(3) Plaintiff has *plenty* of adequate remedy at law. In the highly unlikely event

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

that Plaintiff prevails, Plaintiff can be monetarily compensated for the damages it claims—alleged damages to the gates, streets, and amenities at Westbury.

To the contrary, Defendant is entitled to summary judgment on many of the key issues in this dispute.

BACKGROUND

Defendant incorporates the statement of facts and arguments in its Memorandum in Support of Partial Summary Judgment. Summarized, Plaintiff and Defendant are neighboring communities that both were established by the same developer on the same tract of land (Westbury Park and Westbury Estate, respectively). Defendant is landlocked from access to outside roads, with the exception of an easement through Plaintiff's development along Kensington Boulevard (marked in red, below). That is how the property was developed, and that is how it has always been (since 1998).



ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

For decades, Defendant paid Plaintiff an exorbitant assessment to maintain Kensington Boulevard, as set forth in the governing documents. Over two decades, Defendant paid about $1.3 million for that maintenance. Indisputably, the requirement for Defendant to pay that assessment ended, as intended, in November 2018. Indisputably, the easement along Kensington Boulevard remains in place, and remains the only access to Defendant's community.

Indisputably, Plaintiff did not use the fee paid by Defendant for its sole purpose—to maintain Kensington Boulevard. Instead, the fee became a type of "slush fund" for Plaintiff. For example, Plaintiff took to using the money for mowing, trimming, and leaf removal of the front yards of all single-family and townhome lawns in Westbury Park. (Exhibit 1: Westbury Park, ROA, Board of Directors Memorandum, 3/17/2020). When the assessment obligation expired, Plaintiff appears to have gone into financial shock (no more free lawn care!). In this lawsuit, Plaintiff now seeks to punish Defendant and its residents.

STANDARD

South Carolina's Supreme Court has articulated the standard for preliminary injunctions:

> The purpose of a preliminary injunction is to preserve the status quo and prevent irreparable harm to the party requesting it. *Powell v. Immanuel Baptist Church*, 261 S.C. 219, 221, 199 S.E.2d 60, 61 (1973). An applicant for a preliminary injunction must allege sufficient facts to state a cause of action for injunction and demonstrate that this relief is reasonably necessary to preserve the rights of the parties during the litigation. *County of Richland v. Simpkins*, 348 S.C. 664, 669, 560 S.E.2d 902, 904 (Ct.App.2002). Accordingly, the applicant must establish three elements to receive this relief: (1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

> law. *Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 908 (2004).

Compton v. S.C. Dept. of Corrections, 709 S.E.2d 639, 642 (S.C. 2011); *see also Hook Point, LLC v. Branch Banking and Tr. Co.*, 725 S.E.2d 681, 683 (S.C. 2012).

ARGUMENT

Plaintiff's written Motion demands broad mandates, but cites to no evidence whatsoever. At this writing, Plaintiff has filed no documents, affidavits, or other evidence in support of its Motion. Defendant objects to being required to defend against evidence filed for the first time at a hearing, without the chance to study it in advance to prepare a defense.

Plaintiff's Motion demands a preliminary injunction on eight points, which can be summarized in three categories:

1. Damage to the gates (points 1-4);
2. Using parks, green spaces, and playgrounds (points 5-7);
3. Provide identities of Westbury Estate owners and vehicles (point 8).

As an initial matter, Defendant agrees that nobody should be damaging the gates or other property. Defendant agrees that if the gates, or any other property, is unlawfully damaged, the police should be called and appropriate law enforcement action should be taken. However, Defendant is not the police (obviously), and it has no authority to enforce criminal proceedings, particularly outside of Westbury Estate property.

A. Plaintiff will not "suffer immediate, irreparable harm without the injunction"

A preliminary injunction is a drastic remedy. *See Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc.*, 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004). ("An injunction is

a drastic remedy issued by the court in its discretion to prevent irreparable harm suffered by the plaintiff.") In addition to the fact that, at this writing, Plaintiff has filed no evidence that it will suffer "immediate, irreparable harm without the injunction," the undisputed facts belie Plaintiff's demand.

First, there is no "immediate" harm. *See Zabinski v. Bright Acres Associates*, 553 S.E.2d 110, 121 (S.C. 2001) ("The sole purpose of a temporary injunction is to preserve the status quo and thus avoid possible irreparable injury to a party pending litigation.") (emphasis added). Critically, **the status quo is the current arrangement**. As discussed above, and in Defendant's Memorandum in Support of its Motion for Partial Summary Judgment, the current easement and communities have been in existence for at least two decades (since 1998). Each property owner took title in Westbury Park with notice (constructive and/or actual) of the configuration of the two communities, which are intertwined with each other by design. The relationship of Westbury Park and Westbury Estate is obvious to anyone living there, or who examines the neighborhood with any attentiveness. That is how they were set up and have functioned for many years. In sum, Plaintiff cannot prove "immediateness" of any sort.

Second, there is no "irreparable" harm. Typically, "irreparable harm" in preliminary injunction motions involves un-fixable damage that would be caused by changes in circumstances. *See, e.g., AJG Holdings, LLC v. Dunn*, 674 S.E.2d 505 (S.C. App. 2009) (preliminary injunction barring commercial use of building as bed and breakfast in violation of existing deed restrictions against commercial use); *Peek v. Spartanburg Regl. Healthcare System*, 626 S.E.2d 34 (S.C. App. 2005), *holding modified by Poynter Invs., Inc. v.*

Westbury Record on Appeal 0297

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Cent. Builders of Piedmont, Inc., 694 S.E.2d 15 (S.C. 2010) (anesthesiologist established that irreparable harm would result from termination of her staff privileges by hospital). Here, the "damage" of which Plaintiff complains consists primarily of problems with the gate, and use of the park and playground by children and residents. Any problems with the gate have been, and should continue to be, addressed by police and Westbury Park's security. Plaintiff's complaint about "undesirable" children playing on the playground, or in the park, is certainly not "irreparable"—at worst, playground and parks can be repaired and refurbished if needed. In sum, Plaintiff cannot prove "irreparable" harm of any sort.

B. Plaintiff has little to no "likelihood of success on the merits"

A preliminary injunction may only be granted if the movant proves, conclusively, that it has a strong likelihood of success on the merits. Here, Plaintiff has filed no evidence at all to date. The undisputed facts, however, show that Plaintiff has little to no likelihood of success on the merits—and certainly not enough for a preliminary injunction.

First, Defendant incorporates its arguments and evidence in its Motion for Partial Summary Judgment. The documents and law are clear that Defendant—and each property owner at Westbury Estate, individually—each has an appurtenant easement over portions of Kensington Boulevard and Westbury Park Way, and has every right to use the easement for its intended purposes, including ingress and egress to the outside world.

Second, Plaintiff and Defendant agree that nobody should be destroying or

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

tampering with the gates. Defendant has conveyed Plaintiff's gate policy to its residents, and it has stressed that the policy should be followed. *See, e.g.*, Exhibit 2; Exhibit 3; Exhibit 4. However, Defendant is an "Association of Co-Owners"[1] and does not have police authority over its residents once they leave Westbury Estate. *See Knightsbridge Prop. Owners Assn., Inc. v. Nadeau*, 2016-001696, 2018 WL 2129859, at *1 (S.C. App. May 9, 2018) ("[A] corporation may exercise only those powers which are granted to it by law, by its charter or articles of incorporation, and by any bylaws made pursuant thereto; acts beyond the scope of the powers so granted are ultra vires.") (*citing and quoting Seabrook Island Prop. Owners Ass'n v. Pelzer*, 292 S.C. 343, 347, 356 S.E.2d 411, 414 (Ct. App. 1987)). Here, Defendant is a nonprofit corporation property owners association of limited powers—primarily to maintain, repair, and regulate the common areas within Westbury Estate property. Like other property owners associations, Defendant is not legally empowered to follow and regulate its residents' actions once they leave the Westbury Estate property. The Master Deed articulates the powers of the Westbury Estate property owners association, which do not include patrolling and punishing residents' actions outside of the Westbury Estate grounds:

> In the administration of the operation and management of the Regime, the [Estate at Westbury] Association shall have authority and power to enforce the provisions of this Master Deed, levy and collect Assessments in the manner hereinafter provided, and adopt, promulgate and enforce such rules and regulation **governing the use of the Units, Common Elements, Garage Common Elements and Limited Common Elements** as the Association may deem to be in the best interest of the Regime.

---

[1] *See, e.g.*, Exhibit 5 (Master Deed, p. 1, § 1.1.5: "Estate at Westbury Owners Association, Inc., a South Carolina not-for-profit corporation created or to be created **for the purpose of managing the affairs of the Regime**. **It constitutes the 'Association of Co-Owners' as defined in the Act**.") (emphasis added).

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Exhibit 5, p. 11, § 7.2 Membership (The Estate at Westbury Horizontal Property Regime Master Deed, recorded on 01/26/2006 in the Beaufort County Registrar of Deeds, at Book 2310, Pages 2012-2128) (emphasis added). Nor is Defendant responsible for residents' actions when they leave Westbury Estate.

An analogy is if a Westbury Estate resident was being disruptive at a nearby bar, or shoplifting at a nearby store. Westbury Estate would not have authority to punish that person for actions outside of the Westbury Estate property (and would not be responsible for that person's actions). So too with alleged problems with the gate, park, and playground on Westbury Park property. Instead of pursing this Defendant over those concerns, Plaintiff's remedy is the uniform and fair enforcement of its own policies within its borders, through police action or Westbury Park security.

C. Plaintiff has ample "adequate remedy at law"

If a party may be made whole by an award of money, it has an adequate remedy at law. *See Scratch Golf Co. v. Dunes W. Residential Golf Properties, Inc.*, 603 S.E.2d 905, 908 (S.C. 2004) ("Although Scratch Golf may be able to satisfy elements 1 and 2, it cannot satisfy element 3 because there was an alternative remedy at law available for Scratch Golf: the statutory remedy of attachment. Therefore, an injunction was not the appropriate remedy."). Here, all of Plaintiff's alleged harms can be fixed with money—the gates can be repaired and monitored by security; the playground can be painted and spruced up; the park can be landscaped. Plaintiff has no credible claim that is un-fixable with a monetary award. Accordingly, Plaintiff has an adequate remedy at law, and the motion should be denied.

D. If the Motion is granted, South Carolina law requires Plaintiff to post a bond.

S.C. Rule of Civil Procedure 65 requires a bond to be posted if Plaintiff's Motion is granted:

> (c) Security. Except in divorce, child custody and non-support actions where the giving of security is discretionary, **no restraining order or temporary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.** . . .

(emphasis added). In the event the Court grants Plaintiff's motion, Defendant requests Plaintiff post a bond of $1.3 million—the amount Defendant has paid in assessments over time—to compensate Defendant for the loss, damages, inconvenience, and misery inflicted on Defendant and its members. Among other things, the relief that Plaintiff is seeking will require a considerable amount of expense and person-power to enforce Westbury Estate residents' actions outside of Westbury Estate property. Additionally, granting Plaintiff's motion may well subject Westbury Estate to legal action by its residents for *ultra vires* actions.

CONCLUSION

For these reasons, Plaintiff's motion should be denied.

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Respectfully Submitted,

FORD WALLACE THOMSON LLC

By: s/ Ian Ford
Ian S. Ford (S.C. Bar No. 12463)
Ian.Ford@FordWallace.com
Ainsley F. Tillman (S.C. Bar No. 70551)
Ainsley.Tillman@FordWallace.com
715 King Street, Charleston, South Carolina 29403
(843) 277-2011
www.FordWallace.com

and

Evan K. Bromley (S.C. Bar No. 76060)
evan@bromleylawfirm.com
Bromley Law Firm LLC
211 Goethe Road, Suite B
Bluffton, South Carolina 29910

Attorneys for Defendant and Counterclaim Plaintiff Estate at Westbury Owners Association, Inc.

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Exhibit 1

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

WESTBURY PARK, ROA

BOARD OF DIRECTORS

Phil Mateo, Karen Parks, Jodi Butterworth, James Cook, Erik Hardy, Helen Lamarre

DATE: March 17, 2020

TO: Westbury Park, ROA Owners

FROM: Westbury Park, ROA Board of Directors

RE: **IMPORTANT CHANGES – Maintenance for single-family and Townhomes Front Lawns**

Recently, the Westbury Park Board of Directors voted to enter into a contract with a new landscape maintenance firm. This new landscaping contractor will soon begin performing general landscape services for the *common areas*, including *bi-annual planting of the seasonal flowers*, installation of *pine straw* in the mulched beds, weekly vacuum truck services, maintaining our pet waste stations and annual pruning of our trees. Once the final contract terms are complete, the new contractor will begin their services and will be fully up and running as of April 1.

A major change is that all mowing, trimming, and leaf removal for the **front yards of all single-family and townhome lawns will no longer be a service provided** under the new contract. **Effective immediately,** all resident's will be individually responsible for the maintenance of all areas of their yards.
While this decision was a difficult one, it was necessary for the following reasons:

- Westbury Park RA continues to experience operational challenges due to the loss of income from the easement agreement with the Estate at Westbury.

- In lieu of raising homeowner's fees, the Board chose to reduce the landscape expense portion of the 2020 operating budget to remain in line with our income. As many of you know, landscaping has historically been the single largest item of expense for our overall operating budget.

- The Board recognized that some Owners had already "opted out" of having the common area service provider handle maintaining their front yards. It has been difficult to manage the process of who did or did not want this service provided and many residents have expressed dissatisfaction with the commercial vendor's quality of the mowing and other lawn care techniques.

- Another factor was that most of the 'front' lawns of Westbury Park 's homes are relatively small so eliminating them would not have a major impact for most residents.

Therefore, the Board felt the fairest option was to terminate all front lawn maintenance.
As a reminder, residents remain responsible to ensure that they **also properly maintain all other areas of their yards and property** in compliance with the **Architectural Design Guidelines & Appearance**

and Maintenance Standards.

Adjusting to this change may create some challenges for some, so over the next few weeks, the Board will develop and provide a list of landscape firms that are either already performing services for some of your neighbors or have expressed interest is providing pricing proposals for residents who would like to consider this option.
Thank you for your understanding in this important matter. Since the growing season will be here soon, please begin to take all appropriate actions or arrangements to ensure your property will be properly maintained.

We are very excited about a new landscaping firm coming on-board and we hope that we will all soon see major improvements in the condition of our common area landscaping.

For more on official Westbury Park information visit the following:
Westbury Park website – https://www.westburyparksc.com/

If you have any questions or concerns, please don't hesitate to reach out to our Association Manager, Dave Lewellen.

Dave may be reached at the following:
Phone: *(843) 785-4775 ext. 207* **|** ***Email:*** *Dave@IMCHHI.com*

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

[redacted]

Exhibit 2

[redacted]

-----Original Message-----
From: Estate at Westbury <mailer@payhoa.com>
To: Ralph Paine <dpaine11@gmail.com>
Cc: rpaine2790@aol.com
Sent: Tue, Jun 23, 2020 9:21 am
Subject: Westbury Park and Gate Access

THE ESTATE AT WESTBURY A CONDOMINIUM

New Message from Estate at Westbury

Go to my Account

Hello Ralph Paine,

Good morning EAW homeowners,

Westbury Park has implemented some new rules concerning the gates and access to the property. I've attached them as provided to me. Please take the time to make yourselves familiar with these rules, as we are bound by them. In addition to these new rules, we've received several complaints of people on motorcycles not following the rules. It is imperative you use the gate as intended and not ride around the gate nor enter through the "exit". Also, noise should be minimum.
PLEASE SHARE THIS INFORMATION WITH PROPERTY MANAGERS,

TENANTS, AND VENDORS!

Thank you,
Jeannette Prinsen
Community Manager

For any quest ons or concerns, p ease respond to th s ema .

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury Record on Appeal 0306

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Gate Access & Security Rules and Regulations

I. GENERAL:

Westbury Park is a private, gated residential community and entry by the general public is prohibited except in accordance with the Association Governing Documents and this Policy.

Section 1.1 Definitions. The terms used in this Policy (hereinafter referred to as the "***Policy***") shall have the same meaning as contained within the recorded Declaration of Covenants, Conditions, and Restrictions for Westbury Park Residential Properties, as amended, unless the context requires otherwise or unless otherwise specified herein.

Section 1.2 Applicability. This Policy is enacted by the Board of Directors in accordance with Section 3.1 of the Declaration. This Policy shall be binding upon all Owners and lessees of Owners, their families, invitees, and guests, and any other Persons that use the roads, streets, sidewalks or other Common Areas of Westbury Park. All present and future co-owners, tenants, future tenants, or their employees, or any other person that might use the Common Areas in any manner, are subject to the rules and regulations set forth herein (and any amendments thereto). Each and every Person who accepts the right to use the roads, streets, parking facilities and other Common Areas of Westbury Park hereby consent to the application of and are bound by the Rules and Regulations established within this Policy.

Section 1.3 Conflicts. In the event of any conflict or ambiguity between this Policy and the provisions of a state statute, the Declaration, or the Bylaws, the provisions of such statute, the Declaration, or the Bylaws, as the case may be, shall control.

II. ACCESS TO THE PROPERTY:

Access to all properties within Westbury Park is restricted to ensure the safety & security of its owners and residents.

Section 2.1 Compliance. All vehicles using the roadways and parking areas of Westbury Park must have a valid state registration and license plate, and must comply with the rules and regulations regarding registration and access set forth herein. All Persons using the Common Area of Westbury Park, including but not necessarily limited to Owners, invitees, residents, and visitors (*e.g.*, guests, contractors, *etc.*) must obey the laws of the State of South Carolina and all rules and regulations established by this Policy and the Governing Documents. Administrative processes and procedures used to support this Policy may be changed and updated as required.

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Section 2.2 Access Points; Gate Rules. The two vehicle access gates and the sidewalks at the gate areas are the only authorized entry & exit points for Westbury Park. For the purposes of this policy, the gate located on Westbury Parkway near its intersection with Kensington Boulevard shall be known as the "***Main Gate***." The gate located on Kensington Boulevard near its intersection with Buck Island Road shall be known as the "***Buck Island Gate***."

(a) Only one vehicle at time may enter through the gate. Drivers must wait until the gate closes and then reopens from use of their device before attempting to enter. No tailgating is permitted.

(b) Breaches of the gate system include, but are not limited to: (i) tampering with gates or related control and surveillance equipment, in any way; (ii) tailgating; (iii) pushing through or around the ingress gates or attempting to enter through use of the egress only gates; and (iv) unauthorized use or sharing of a swipe card, FOB or access code.

Section 2.3 Owner and Resident Registration. All owners and full-time residents of Westbury Park, whether an Owner, a Member, a full-time tenant, or adult child of the same in Westbury Park Residential Association or the Estates at Westbury (herein, a "***Resident***"), are required to register their vehicles with the Association. Resident Vehicle Registration forms are available on-line or at the offices of the Association or the 3rd party Managing Agent of the Association and/or the Estates at Westbury. All Owners, Members, and Residents must complete the portion of the Registration Form to be included in the Resident Directory portion of the gated access control system, which is located at the Main Gate. The Resident Directory allows Residents to grant visitors the right to enter using an auto-dial feature that provides the Resident with the ability to remotely lift the gate arm.

(a) Vehicle registration is limited to one specific vehicle. Transferring decals, access devises, or registration to another vehicle is strictly prohibited. If a Resident changes vehicles at any point, a new Resident Registration form must be completed.

(b) Access devices, decals and bar codes must be surrendered by Resident upon the termination of the Resident's interest in Westbury Park.

(c) The Association may charge a reasonable fee to the Resident for the acquisition of an access device.

(d) Evidence of permanent residence within Westbury Park, via South Carolina Driver's License or Vehicle Registration, current active lease, or executed home ownership documents (*e.g.,* executed deed and/or HUD settlement statement or equivalent) is required for Resident Registration.

(e) Owners are responsible for notifying tenants of the requirements set forth herein.

(f) Rental agents and/or Residents are responsible for picking up the access devices for their tenants, and must first provide a fully executed copy of the lease which complies with the associated rules and policies of the Association. Owners and Residents are responsible to advise their visitors, vendors, contractors, including rental/leasing or real estate sales agents of the rules and policies for gaining access to Westbury Park.

Section 2.4 Owner and Resident Access. All Residents shall only use an authorized access device provided by the Association (*e.g.* electronic swipe card, electronic FOB, or RFID sticker) to enter

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury via one of the two gates. In order to minimize the potential for delays and backups at the Main Gate, residents shall not use the Resident Directory's auto-dial system to engage the remote entry function for themselves. The Buck Island Gate is limited to Resident entry and entry by emergency personnel.

Section 2.5 Visitor Gate Access. Authorized and invited guests are welcome within Westbury Park. Residents may permit guest entry through the Resident Directory's auto-dial system. All guests must adhere with the Governing Documents.

Section 2.6 Commercial Visitors. All Persons who are accessing the Property and are performing a service for a fee (herein, a "***Contractor***") may only enter through the applicable Resident Directory's auto-dial system, unless such Contractor has obtained a temporary access control device or has received a 4-digit instant access code pursuant to this Policy.

(a) Contractors are permitted entry to Westbury Park to work between the hours of 8 A.M. and 7 P.M., Monday through Saturday. This provision does not apply to emergency contract services necessary to prevent or stop continued damage to a Unit or such services that are necessary for the health, safety or welfare of a Resident. Such services shall include but not necessarily be limited to emergency plumbing service and, post-storm temporary repairs.

(b) Contractors are not permitted to enter into Westbury Park for use of its facilities or amenities. Contractors are not permitted to solicit work, distribute flyers, post signage, or otherwise advertise while on the Property.

(c) Baby sitters, house sitters, domestic and healthcare support, and pet sitters, despite being paid for their services, may be treated as guests rather than Contractors in accordance with Section 2.6 of this Policy.

(d) Certain designated contractors, as set forth in Section 11.7 of the Declaration, may be authorized by the Westbury Park Residential Association's Property Manager to receive a 4-digit instant access code. These users are prohibited from sharing these codes with any unaffiliated drivers.

(e) In addition to any rules and regulations set by the ARC or any other Governing Document, Contractors shall clean up any trash or debris daily, including site debris that blows off the site and mud tracked onto roadways and remove from the Property. Any damage to any Common Area shall be reported to the Association promptly.

(f) Contractors that violate this Policy shall be subject to fines and possible permanent removal from property.

(g) Contractors may purchase a temporary access control device when the frequent nature of the work or services they perform on behalf of the Association, Residents, or the Estate at Westbury requires it. Only the Property Manager for Westbury Park Residential Association can authorize this type of purchase and the process may require proof of contract or an affidavit by the respective Resident pertaining to the frequency or need for an authorized device.

Section 2.7 Special Events. Special Westbury Park Owner or Resident sponsored events, including but not necessarily limited to parties or gatherings where the expected number of vehicles needing access is ten or more require a minimum advance notice of two (2) Business Days if a special access code is desired to facilitate guest access. Contact the Westbury Park Residential Property

Manager's office to obtain an application for a special event access code. All special event codes expire within a 12-24 hour period of time.

III. ENFORCEMENT:

This Policy was developed to enhance the quality of life of all persons within Westbury Park and to eliminate uses and dangers that work to the detriment of such goals. The purpose of this Policy is not to anticipate all potential acceptable or unacceptable behavior in advance. In fact, it is expressly intended that the Board, as appropriate, have discretion to enforce or not enforce technical violations hereof based upon their reasonable judgment. The exercise of discretion in approving or enforcing this Policy shall not be construed as a waiver of approval or the right to enforce in future circumstances, nor shall it preclude the Association from taking enforcement action.

Section 3.1 Enforcement. Violations of any rule or regulation set forth within this Policy, as determined by the Board, may subject the violator or any such other Person to disciplinary action as set forth within the Governing Documents, including but not limited to Section 3.24 of the Bylaws, which includes the imposition of monetary fines and the suspension of rights, and or any such action permitted under South Carolina. Moreover, to preserve the family-friendly atmosphere of Westbury Park, the Board, management, contracted security, or local law enforcement may dismiss any Resident, guest, Contractor, visitor or such other Person if their behavior is deemed in conflict with the provisions hereof or contrary to South Carolina law.

Section 3.2 Fines. Provided below is the fine schedule as enforced by Westbury Park as part of its efforts to maintain Westbury Park as a safe and friendly residential community:

Offense	**1st**	**2nd**	**3rd**	**4th**
Tailgating	$50.00	$50.00	$50.00	$50.00
Gate Breaches	$250.00	$500.00	$1,000.00	$1,000.00

Other offenses and fines may be set by the Board. Any incidents involving damages to a gate or other Common Area of Westbury Park shall include all costs of repair in addition to above-stated fines. The Association may also impose an administrative fee, as necessary, of $100.00 per hour for our third party Property Manager and Security vendor to review video footage, identify and locate the violator, prepare and issue notice of violation and fines. These fines and fees shall be paid within thirty (30) days of notice. These fines and fees are exclusive of any costs and/or legal fees incurred by the Association to enforce compliance with this Policy.

Section 3.3 Trespassing. Trespassing, as set forth within Section 16-11-620 of the South Carolina Code of Laws, within the Property shall be prohibited. Trespassers may be subject to fines, arrest or both as may be permitted by South Carolina law.

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

THE ESTATE AT WESTBURY
A CONDOMINIUM

85 Kensington Boulevard
Bluffton, SC 29910

(843) 706-4763 - phone

Please be advised that Westbury Park is a private association not affiliated with The Estate at Westbury. Therefore, members of the Estate at Westbury Community are not allowed to exercise in their common areas, use their playground, fish in their lagoons, use their swimming pool, club house. or their park areas. EAW Community cannot bring coolers or lounge chairs to these areas or congregate in any way on their common properties.

Members of EAW are not allowed to use any amenity within Westbury Park.

In addition, please be advised that “harassing an alligator” is a violation under SCDNR and carries a hefty fine. This includes taking selfies near the alligator.

Members of the Estate at Westbury community are **only** allowed to use their sidewalks and roads to ingress and egress (come into and go out of) Estate at Westbury.

It is expected that Owners and/or Property Managers will pass this information on to their tenants.

Thank you,

Estate at Westbury Management

[redacted]

----- Forwarded message -----
From: Estate at Westbury <mailer@payhoa.com>
To: Adams Austin <ara7544@yahoo.com.my>
Sent: Thursday, 9 April 2020, 01:38:53 pm EDT
Subject: Westbury Park



New Message from Estate at Westbury

Go to my Account

Hello Adams Austin,

Good afternoon,

Please let this serve as a friendly reminder that Westbury Park is a separate community with a separate HOA. We do not have the rights or permission to use their amenities, or even their roads and sidewalks, besides access in and out of Estate at Westbury. Please limit your time and travels through Westbury Park.
Please pass this information on to your Property Managers and Tenants,

Thank you,
Jeannette Prinsen
HOA Manager

For any questions or concerns, please respond to this email.

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

117 123 RB Launch 3912

Exhibit 5

BEAUFORT COUNTY SC- ROD
BK 02310 PGS 2012-2128
DATE: 01/26/2006 02:53:53 PM
INST # 2006007854 RCPT# 392470

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

TABLE OF CONTENTS

THE ESTATE AT WESTBURY
HORIZONTAL PROPERTY REGIME
MASTER DEED

1. DEFINITIONS. 1
1.1. SPECIFIC DEFINITIONS 1

2. GENERAL DESCRIPTION; STAGING; UNITS 4
2.1. GENERAL DESCRIPTION AND STAGING OF DEVELOPMENT 4
2.1.1. General Description and Staging. 4
2.1.2. Number of Units and Garage Units. 4
2.1.3. Subdividing or Consolidating Units. 4
2.2. DIVISION INTO CONDOMINIUM UNITS 4
2.2.1. Units in Buildings. 4
2.2.2. Attaching Items to Interior of Unit. 5
2.3. SUMMARY OF PLANS 5
2.4 GENERAL DESCRIPTION OF BUILDINGS 5
2.4.1. Construction System Generally. 5
2.4.2. General Description of Layout by Building Type. 6
2.5 GENERAL DESCRIPTION OF UNIT TYPES 6
2.5.1. Type A-1 Unit: One Bedroom, One Bath. 6
2.5.2. Type A-2 Unit: One Bedroom, One Bath. 6
2.5.3. Type A-2 Unit: One Bedroom, One Bath with Loft. 6
2.5.4. Type B-1 Unit: Two Bedroom, Two Bath. 6
2.5.5. Type C-1 Unit: Three Bedroom, Two Bath. 7

3. COMMON ELEMENTS AND LIMITED COMMON ELEMENTS. 7
3.1. COMMON ELEMENTS 7
3.2. LIMITED COMMON ELEMENTS GENERALLY 7
3.3. DISPUTES REGARDING STATUS OR BOUNDARIES 7
3.4. PERCENTAGE INTERESTS OF UNITS IN COMMON ELEMENTS 8
3.5. GARAGE UNITS 8
3.5.1. Garage Units Generally. 8
3.5.2. Conveying or Renting Garage Units. 8
3.5.3. Ownership Only by Unit Owners. 8
3.5.4. Garage Budget. 8
3.5.5. Assessments for Garage Units. 9
3.5.6. Application of Principles and Procedures. 9

4. REPAIR AND MAINTENANCE 9
4.1. UNIT REPAIR, MAINTENANCE AND DECORATION 9
4.2. COMMON ELEMENTS MAINTENANCE AND REPAIR 9

5. EASEMENTS. 9
5.1. EASEMENTS FOR ASSOCIATION 9
5.2. EASEMENT FOR DECLARANT 10
5.3. EASEMENT FOR REPAIR, MAINTENANCE AND EMERGENCIES 10
5.4. EASEMENTS FOR ENCROACHMENTS 10
5.5. PRIOR RECORDED EASEMENTS 11
5.6. GOVERNMENTAL EASEMENT 11

ADD DMP Record 2/15/2006 03:48:29 PM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R600	031	000	0266	0000	00

Charleston 269799-2

RECORDED
2006 Feb -15 05:21 PM
Sharon Q. Burris
BEAUFORT COUNTY AUDITOR

i

6. PERCENTAGE INTERESTS. 11

7. ASSOCIATION; ADMINISTRATION; VOTING; RECORDS. 11
7.1. THE ASSOCIATION; BOARD OF DIRECTORS 11
7.2. MEMBERSHIP 11
7.3. VOTING 11
7.4. RULES AND REGULATIONS 12
7.5. EMPLOYEES, MANAGEMENT AGENT AND MANAGEMENT AGREEMENT 12
7.6. INDEMNIFICATION 12
7.7. BOOKS AND RECORDS 12

8. INSURANCE. 12
8.1. TYPES OF INSURANCE 12
8.2. OTHER INSURANCE CRITERIA 13
8.3. COLLECTION OF PREMIUMS FOR INSURANCE 13
8.4. INSURANCE BY OWNERS 14
8.5. INSURANCE TRUSTEE 14
8.6. USE OF PROCEEDS IF DAMAGE TO UNITS ONLY 14
8.7. USE OF PROCEEDS IF DAMAGE TO COMMON ELEMENTS ONLY 14
8.8. USE OF PROCEEDS IF DAMAGE TO BOTH UNITS AND COMMON ELEMENTS 15
8.9. USE OF EXCESS PROCEEDS 15
8.10. WHEN RECONSTRUCTION NOT REQUIRED 15
8.11. CONTRACT ADMINISTRATION DURING RECONSTRUCTION 15
8.12. RIGHTS OF MORTGAGEES 15
8.13. ATTORNEY-IN-FACT FOR OWNER 16

9. CONDEMNATION. 16
9.1. IF RESTORATION WILL OCCUR 16
9.2. IF RESTORATION WILL NOT OCCUR 16

10. MISCELLANEOUS. 16
10.1. UNIT AND GARAGE UNIT MORTGAGES 16
10.2. REAL ESTATE TAXES 16
10.3. RESTRICTIONS ON RENTALS AND INTERVAL OWNERSHIP 17
10.4. NOTICE OF SALE OR OTHER CONVEYANCE 17
10.5. INFORMATION REGARDING MORTGAGEES 17

11. NOTICES. 17
11.1. NOTICE PROCEDURE 17
11.2. ADDRESSES 18

12. ASSESSMENTS 18
12.1. PURPOSE OF ASSESSMENTS 18
12.2. REGULAR ASSESSMENTS AND BUDGET 18
12.2.1. Fiscal Year and Annual Budget 18
12.2.2. Financial Statement 19
12.2.3. Elements of Budget 19
12.2.4. Apportioning Assessments 19
12.2.5. When Assessments Are Payable 19
12.3. SPECIAL ASSESSMENTS 19
12.3.1. Special Assessments by Board of Directors 19
12.3.2. Special Assessments with Owner Approval 19
12.3.3. When Special Assessments Are Due 20
12.4. INITIAL WORKING CAPITAL ASSESSMENT 20
12.5. EFFECT OF NON-PAYMENT OF ASSESSMENTS 20

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

12.6. LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS 20
12.7. SUBORDINATION OF LIEN; MORTGAGEE RIGHTS 20
12.8. STATEMENT OF ACCOUNT 21

13. REMEDIES OF ASSOCIATION. 21
13.1. REMEDIES AND ENFORCEMENT 21
13.2. ATTORNEYS FEES AND COSTS 21
13.3. DISCHARGE OF MECHANIC'S LIENS 21

14. AMENDMENTS. 22
14.1. AMENDMENT TO MASTER DEED BY ASSOCIATION 22
14.2. AMENDMENTS TO MASTER DEED BY DECLARANT 22
14.3. AMENDMENTS TO RULES AND REGULATIONS 22

15. GENERAL. 22
15.1. TITLE 22
15.2. APPLICABLE LAW AND INTERPRETATION 22
15.3. CONFLICTS WITH ACT OR LAW 22
15.4. TRANSFER OF DECLARANT'S RIGHTS 23
15.5. MODIFYING SYSTEM OF ADMINISTRATION OF ASSOCIATION 23

EXHIBIT "A": LEGAL DESCRIPTION 25

EXHIBIT "B": BYLAWS 1

1. NAME AND PRINCIPAL OFFICE 1
1.1. Name. 1
1.2. Offices. 1

2. DEFINITIONS 1
2.1. Definitions. 1

3. MEMBERS; VOTING AND MEETINGS 1
3.1. Members. 1
3.2. Notice of Ownership 1
3.3. Annual and Regular Meetings. 1
3.4. Special Meetings 1
3.5. Notice of Meetings. 2
3.6. Voting by Members. 2
3.7. Quorum of Members. 2
3.8. Proxies and Authority of Person Voting. 2

4. BOARD OF DIRECTORS 3
4.1. General Powers. 3
4.2. Number, Tenure, and Qualifications. 3
4.3. Annual and Regular Meetings. 4
4.4. Special Meetings 4
4.5. Quorum, Telephonic Meetings and Manner of Acting 4
4.6. Compensation. 4
4.7. Resignation and Removal 4
4.8. Vacancies. 4
4.9. Informal Action by Directors. 5
4.10. Election of Chairman of Board. 5

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

5. OFFICERS 5
5.1. Number. 5
5.2. Election, Tenure, and Qualifications. 5
5.3. Subordinate Officers and Agents. 5
5.4. Resignation and Removal 5
5.5. Vacancies and Newly Created Offices. 5
5.6. The President. 5
5.7. The Vice President. 6
5.8. The Secretary. 6
5.9. The Treasurer. 6
5.10. Compensation. 6

6. COMMITTEES 6
6.1. Designation of Committees. 6
6.2. Proceedings of Committees. 6
6.3. Quorum and Manner of Acting. 6
6.4. Resignation and Removal 7
6.5. Vacancies. 7

7. INDEMNIFICATION 7
7.1. Indemnification. 7
7.2. Determination. 7
7.3. Advances 7
7.4. Scope of Indemnification. 7
7.5. Insurance. 8
7.6. Payments and Premiums. 8

8. FISCAL YEAR AND SEAL 8
8.1. Fiscal Year. 8
8.2. Seal. 8

9. RULES AND REGULATIONS 8
9.1. Rules and Regulations. 8

10. NOTICES 8
10.1. Notices. 8
10.2. Addresses. 8

11. OTHER STATUTORY PROVISIONS 9

12. AMENDMENT OF BYLAWS 9
12.1. Amendment by Association. 9
12.2. Amendment by Declarant. 9

EXHIBIT "C": PLOT PLAN, UNIT PLANS, FLOOR PLANS, ELEVATIONS, UNIT SIZES AND DESIGNATIONS; GARAGE UNIT DESIGNATIONS 1

EXHIBIT "D": PERCENTAGE INTERESTS: UNITS 1

EXHIBIT "D-1": PERCENTAGE INTERESTS: GARAGE UNITS 1

Westbury Record on Appeal 0316

EXHIBIT "E": ARCHITECT'S OR ENGINEER'S CERTIFICATION 1

EXHIBIT "F": RULES AND REGULATIONS 1

1. Residential and Business Usage. 1
2. Timesharing and Rentals: 1
3. Use of Owners' Terraces and Other Common Elements. 2
4. Prohibited Uses. 2
5. Owner Responsible for Conduct of Others in Unit. 2
6. Access to the Property. 2
7. Pets. 2
8. Offensive Activities. 3
9. Signs, Mail Receptacles and Window Treatments. 3
10. Antennas and Telecommunications Equipment. 3
11. Approval of Modifications. 3
12. Trash. 4
13. Obstruction and Use of Common Elements 4
14. Parking. 4
15. Unauthorized Vehicles and Uses; Towing. 5
16. Responsibility for Damage to Common Elements. 5
17. Keys, Locks and Emergency Access. 6
18. Solicitations. 6
19. Grills. 6
20. Penalties for Violations. 6
21. Waivers of Rules and Regulations. 6
22. Amendment of Rules and Regulations. 6

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA	)	**MASTER DEED: THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME**
	)	
COUNTY OF CHARLESTON	)	

THIS **MASTER DEED**, made by **MONTECITO WESTBURY, LLC**, a Delaware limited liability company ("Declarant"), pursuant to the Horizontal Property Act of South Carolina (the "Act"), is for the purpose of creating a horizontal property regime and establishing certain easements, covenants, and restrictions to run with the land. The Declarant, by executing and recording this Master Deed, submits the property described in Exhibit A herein (the "Property") to the provisions of the Act, and creates, with respect to the Property, a condominium to be governed by and subject to the provisions of this Master Deed and the Act. To that end the Declarant declares the following:

1. DEFINITIONS.

1.1. SPECIFIC DEFINITIONS

The definitions contained in Section 27-31-20 of the Act are incorporated in this Master Deed unless it clear from the context that a definition in the Act is contradictory to a definition in this Master Deed, in which event the definition in this Master Deed shall apply.

1.1.1. "Act" means the Horizontal Property Act, Section 27-31-20 et seq. of the 1976 Code of Laws of South Carolina, as amended from time to time. References to specific sections of the Act contained herein refer to the sections as designated at the time of recordation of this Master Deed.

1.1.2. "Added Property(s)" means real property, whether or not owned by the Declarant, that is made subject to this Master Deed with the written recorded approval of the Declarant.

1.1.3. "Apartment" means a "Unit", as defined herein.

1.1.4. "Assessment" means the charges from time to time assessed against a Unit by the Association in the manner herein provided, and includes both regular and special assessments.

1.1.5. "Association" means Estate at Westbury Owners Association, Inc., a South Carolina not-for-profit corporation created or to be created for the purpose of managing the affairs of the Regime. It constitutes the "Association of Co-Owners" as defined in the Act.

1.1.6. "Board of Directors" means the Board of Directors of the Association. The Board shall constitute that body referred to in the Act of South Carolina as "the board of administration."

1.1.7. "Building" means a structure or structures, containing in the aggregate two or more Units, comprising a part of the Property.

1.1.8. "Bylaws" means the Bylaws adopted by the Association that govern the administration and operation of the Association, as amended from time to time. The initial Bylaws are attached as Exhibit B.

1.1.9. "Co-owner" or "Owner" means any Person that owns a Unit. (Also see "Unit Owner", below.)

1.1.10. "Common Elements" means "general common elements" and "limited common elements" as defined in the Act and more specifically defined in Section 3 of this Master Deed. It includes, without limitation, all areas shown and designated as a Common Elements, or similar wording clearly indicating such intent, on or in (a) this Master Deed, including the exhibits attached to this Master Deed, as it may be amended from time to time, or (b) any recorded plat of

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

the Property or recorded amendment or Supplement to the Master Deed that has been approved in writing by the Declarant. THE DESIGNATION OF ANY OF THE PROPERTY AS COMMON ELEMENTS SHALL NOT MEAN THAT THE PUBLIC AT LARGE ACQUIRES ANY EASEMENT OF USE OR ENJOYMENT THEREIN.

1.1.11. "Common Expense" means all liabilities or expenditures made or incurred by or on behalf of the Association, including, without limitation, expenses of administration, insurance, operation, and management; expenses of maintenance, repair or replacement of the Common Elements (including Limited Common Elements); and other expenses declared to be Common Expenses by this Master Deed or the Bylaws.

1.1.12. "Condominium" or "condominium ownership" means the form of ownership intended by the Master Deed, that is, ownership by Owners of individual Units, with a common right to a share of the Common Elements.

1.1.13. "Declarant" means Montecito Westbury, LLC, a Delaware limited liability company, its successors and assigns. The Declarant may assign its rights as Declarant, in whole or in part, by a written assignment signed by the Declarant and the assignee and duly recorded in the Register of Deeds for Beaufort County, South Carolina. Conveyance by Declarant or an Owner of a deed to a Unit or the existence of a mortgage on a Unit or the Property shall not be deemed to make the grantee or the mortgagee a "Declarant."

1.1.14. "Elevations" means the drawings showing the exterior characteristics and dimensions of the Buildings or other improvements on the Property, or showing the vertical location of Units or Common Elements in such improvements, which drawings are attached hereto as part of Exhibit C and by this reference made a part hereof, and any amendment or supplement thereto set forth in a recorded amendment or Supplement to the Master Deed that has been approved in writing by the Declarant.

1.1.15. "Floor Plans" means the plans for the Buildings that show the general configuration of Units, which plans are attached hereto as part of Exhibit C and by this reference made a part hereof, and any amendment or supplement thereto set forth in a recorded amendment or Supplement to the Master Deed that has been approved in writing by the Declarant.

1.1.16. "Garage Unit" has the meaning set forth in Section 3.5.1, below.

1.1.17. "Joint Owner" means a Person that owns a Unit with any other entity and the combination of which constitutes a single Unit Owner. Where a Person is a Joint Owner of a Unit, the Association may establish such rules and procedures as it deems appropriate to govern which Joint Owner or Owners has the right to act or communicate on behalf of the Unit in matters governed by this Master Deed.

1.1.18. "Limited Common Elements" means Common Elements that are reserved for the use of a certain Unit or Units to the exclusion of the other Units, and that are shown and designated as a Limited Common Element, or similar wording clearly indicating such intent, on or in (a) this Master Deed and the exhibits thereto, as amended from time to time, or (b) any recorded plat of the Property or Supplement to the Master Deed, including any exhibits thereto, that has been approved in writing by the Declarant. (See Section 3)

1.1.19. "Majority of Co-owners", "Majority of Owners" or "Majority in Interest" means fifty-one percent (51%) or more of the Percentage Interests, as shown in Exhibit D (for Units) or Exhibit D-1 (for Garage Units) to this Master Deed.

1.1.20. "Management Agent" means any entity retained by the Association as an independent contractor to supervise the use, maintenance and repair of the Common Elements, or portions thereof, or manage the business affairs of the Association.

1.1.21. "Master Deed" means this Master Deed and all amendments or supplements thereto filed of record from time to time in the Register of Deeds for Beaufort County, South

Westbury Record on Appeal 0319

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Carolina.

1.1.22. "Occupant" means any individual lawfully occupying any Unit, including, without limitation, any Owner or tenant, their resident family members, and their guests, invitees, and licensees.

1.1.23. "Owner" means any Person that owns fee simple title to any Unit, or if applicable, Garage Unit. "Owner" has the same meaning as "Co-Owner", as that term is defined in the Act. "Owner" shall not mean (i) a mortgagee unless such mortgagee has acquired title to the Unit or Garage Unit, or (ii) any Person having a contract to purchase a Unit or Garage Unit but to which title has not been conveyed of record.

1.1.24. "Operation of the Property" means and includes matters relating to the administration, use, operation, maintenance, repair, replacement, renovation or development of the Property or portions of the Property, including the Common Elements.

1.1.25. "Percentage Interest" means, as applicable (a) the percentage of undivided interest in the Common Elements then appertaining to each Unit, as set forth in Exhibit D to this Master Deed; or (b) the percentage of undivided interest in the Garage Common Elements then appertaining to each Garage Unit, as set forth in Exhibit D-1 to this Master Deed.

1.1.26. "Person" means an individual, firm, corporation, limited liability company, partnership, association, trust or other legal entity.

1.1.27. "Plot Plan" means the plat(s) or survey(s) of the Property showing the location of any Building or other significant improvements on the Property, as shown as part of Exhibit C to this Master Deed, and any amendment or supplement thereto showing Added Property and set forth in a recorded amendment or Supplement to the Master Deed that has been approved in writing by the Declarant.

1.1.28. "Property" means the property described in Exhibit A to this Master Deed and any Added Property.

1.1.29. "Regime" means The Estate at Westbury Horizontal Property Regime created by the recordation of this Master Deed, as set forth in Section 27-31-30 of the Act.

1.1.30. "Rules and Regulations" means those standards governing the use, administration and operation of the Property as are more specifically set forth in Exhibit F to this Master Deed and any amendments or supplements thereto adopted in accordance with this Master Deed.

1.1.31. Unit Plans" means the plans showing the general configuration and horizontal dimensions of each type of Unit, as shown as part of Exhibit C, and any amendment or supplement thereto set forth in a recorded amendment or Supplement to the Master Deed that has been approved in writing by the Declarant.

1.1.32. "Unit" means an "Apartment" as that term is defined in the Act, and, with the exception of the Garage Units, includes one or more rooms and adjoining patio and/or balcony designated as part thereof, and occupying one or more floors or a part or parts thereof, designed or intended for independent use as a single family dwelling, together with its Percentage Interest in the Common Elements. (Also see Section 2.2.)

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

2. GENERAL DESCRIPTION; STAGING; UNITS.

2.1. GENERAL DESCRIPTION AND STAGING OF DEVELOPMENT

2.1.1. General Description and Staging.

The Property is located at 85 Kensington Boulevard, Town of Bluffton, Beaufort County, South Carolina. The Property is accessed from U. S. Highway 278 East by Kensington Boulevard. The Property contains 320 flat-type Units in sixteen (16) Buildings. The Units consist of five (5) basic Unit configurations, as follows:

A-1:	One Bedroom, One Bath
A-2:	One Bedroom, One Bath
A-2 LOFT:	One Bedroom, One Bath, with loft
B-1:	Two Bedroom, Two Bath
C-1:	Three Bedroom, Two Bath

Thirty-six (36) carport spaces and forty-four (44) storage or maintenance spaces are contained in six (6) on-grade Parking Structures as eighty (80) "Garage Units", which are separate from the Units. (See Section 3.5, below.) The Property also contains, as part of the Common Elements, amenity facilities such as a clubhouse, swimming pool, lakes and on-grade parking. A Plot Plan showing the location of the Buildings, Parking Structures, clubhouse, certain amenity facilities, and on-grade parking is attached as part of Exhibit C. All Units, Garage Units and Common Elements exist in Stage One.

2.1.2. Number of Units and Garage Units.

The Regime contains a total of **320** Units and **80** Garage Units.

2.1.3. Subdividing or Consolidating Units.

No additional Units may be established by subdivision of existing Units, conversion of Common Elements, or otherwise. A lesser number of Units may be established by consolidating two or more existing Units into a single Unit provided that (i) such consolidation is approved in writing by the Board of Directors, the Owners of the Units to be consolidated, and any applicable regulatory entities, and (ii) such consolidation shall not modify the Percentage Interests of any Units not involved in such consolidation unless expressly approved in a recordable writing evidencing the approval of such Units, and (iii) in the absence of the approval referenced in (ii), above, the consolidated Unit shall have a Percentage Interest that is the sum of the previous Percentage Interests of the Units being consolidated into a single Unit. After confirmation of the approvals referenced in (i) and/or (ii), above, the Board of Directors shall cause to be recorded an amendment to this Master Deed amending any applicable provisions of this Master Deed (including any Exhibits). The Board of Directors may, in its sole discretion, determine whether any expenses of the Association in creating, approving, and recording such amendment shall be payable by the Owner or Owners of the Units being consolidated.

2.2. DIVISION INTO CONDOMINIUM UNITS

2.2.1. Units in Buildings.

Each Unit in a Building is depicted on the Plans (as identified below) and, in addition to any Limited Common Elements belonging to such Unit and the Unit's Percentage Interest in the Common Elements, consists of enclosed space within a Building bounded by the Perimeter Walls, Unfinished Ceiling, Unfinished Floor, exterior doors, and windows forming the Unit. For the purpose of further defining a Unit in a Building:

(a) "Unfinished Wall" means the studs, supports, and other wooden, metal, or similar structural materials to which the interior wall material, such as drywall, is attached, but not the interior wall material visible from the interior of the Unit.
(b) "Perimeter Wall" means Unfinished Walls surrounding all or part of the Unit.
(c) "Unfinished Ceiling" means the beams, joists, and wooden, concrete or other structural materials to which the interior ceiling material, such as drywall, is attached, but not the interior ceiling material visible from the interior of the Unit.
(d) "Unfinished Floor" means the beams, floor joists, and wooden, concrete or other floor

Westbury Record on Appeal 0321

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

or deck materials to which the interior floor material, such as wood, plywood sub-flooring or tile, is attached, but not the interior floor material visible from the interior of the Unit.

(e) A Unit includes (i) any non-bearing walls within the Unit; (ii) the drywall, plaster, insulation, wall paneling, wood, tile, paint, paper, carpeting, or any other wall, ceiling, or floor covering attached to Perimeter Walls and non-bearing walls within the Unit, ceilings, or floors; (iii) windows, window frames and screens; awnings; and doors, door hardware and door frames serving only the Unit; (iv) any fireplace or stove hearth, facing brick, tile, stone or firebox; (v) removable appliances, equipment, wiring, fans, fixtures and hardware and all improvements contained within the Perimeter Walls, ceilings, and floors that serve only the Unit; (vi) spas, fountains or hot tubs within the Unit or within Limited Common Elements serving only the Unit; and (vii) any heating and cooling elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, ducts, chases, channels, compressors, air handling systems, controls, fans, registers, diffusers and all other related equipment required to provide heating, air-conditioning, hot and cold water, electrical, or other utility services solely to the Unit, wherever located. A Unit does not include any of the structural components of the Unit or utility or service lines, fireplace flues or utility chases located within the Unit that serve more than one Unit.

2.2.2. Attaching Items to Interior of Unit.

An Owner shall have the right to affix to the interior surface of the Perimeter Walls, ceiling, and floors of such Owner's Unit usual electrical wiring or fixtures, wall ornaments, and similar accessories if such action complies with applicable codes and does not, in the opinion of the Board of Directors, (a) materially and adversely affect any structural element, Common Elements, another Unit, or any equipment or system serving another Unit or Common Elements, (b) materially increase safety risks or insurance costs for the Building or Unit, or (c) violate the provisions of this Master Deed or the Rules and Regulations.

2.3. SUMMARY OF PLANS

In accordance with Section 27-31-110 of the Act, attached hereto and made a part of this Master Deed are the following documents, which cumulatively constitute the "Plans":

(a) Plot Plan, Typical Unit Types, Typical Building Types, Floor Plans, Unit Layouts, Building Elevations, and Parking Structures (Exhibit C).
(b) Percentage Interests: Units (Exhibit D)
(c) Percentage Interests: Garage Units (Exhibit D-1)

The Plot Plan shows the location and type of the Buildings, the location of Parking Structures and significant improvements, and some of the areas that are intended as Common Elements, as certified by a registered land surveyor. The Typical Unit Types show the approximate Unit configurations, sizes and designations of each Unit. The Floor Plans and Unit Layouts show the general location of Units and the general location and approximate dimensions of corridors, stairwells, elevators, storage areas and some Building areas that are intended as Common Elements or Limited Common Elements, by Building Type. The Building Elevations show the exterior characteristics and dimensions of the Buildings, by Building Type. The Parking Structures plans show the general location and approximate dimensions, the exterior characteristics, and the designations of each Garage Unit. Whenever square footage or other dimensions are shown on the Plans, they are approximate, reflecting such factors as (a) the measurement of square footage or dimensions can vary depending on the technique used (e.g. whether measured from interior finished or unfinished wall, floor or ceiling; from exterior wall, floor or ceiling; from beginning or finished grade; etc.) and (b) minor modifications may have been made during the construction process.

2.4 GENERAL DESCRIPTION OF BUILDINGS

2.4.1. Construction System Generally.

The exteriors of the Buildings are constructed primarily of painted cement composite siding and wood trim. Party walls between Units are primarily constructed of wooden studs and fire rated gypsum board. All Buildings are located on grade. The floor of first floor Units is slab on grade construction over which is applied either carpet, vinyl or ceramic tile,

Westbury Record on Appeal 0322

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

depending on location. The floor of second and third floor Units is truss joist construction with plywood underlayment and a gypsum topping, over which is applied either carpet, vinyl or ceramic tile, depending on location. Interior walls and ceilings consist of gypsum sheet board with a paint finish. Ceilings consist of sprayed gypsum sheets. Roofs are constructed primarily of fiberglass shingles over roof felt on plywood sheathing, which sheathing is attached to wooden roof trusses. Each Unit has an individual electric heat pump heating and air conditioning system.

2.4.2. General Description of Layout by Building Type.

2.4.2.1: Buildings 1, 7, 8, 9, 10, and 15 each contain twenty-four (24) Units on three (3) habitable levels, with the first, second and third floors each containing eight (8) Units. Most units are flats, but the third floor of Buildings 1, 8, 10, and 15 include both flats and units with lofts. The mix and general configuration of Unit are shown as part of Exhibit C.

2.4.2.2: Buildings 2, 3, 5, 6, 11, 12, 13 and 14 each contain twenty (20) Units on three (3) habitable levels, with the first and second floors each containing eight (8) Units and the and third floor containing four (4) units. Most units are flats, but the second floor of Building 6 includes both flats and units with lofts. The mix and general configuration of Unit types are shown as part of Exhibit C.

2.4.2.3: Buildings 4 and 16 each contain eight flat-type Units on two (2) habitable levels, with the first and second floors each containing four (4) Units. The mix and general configuration of Unit types are shown as part of Exhibit C.

2.5 GENERAL DESCRIPTION OF UNIT TYPES

2.5.1. Type A-1 Unit: One Bedroom, One Bath.

This Unit contains approximately 586 square feet. The entry door opens into the living room. The kitchen is accessed from the living room and a laundry area is accessed through the kitchen. The bedroom is also accessed from the living room and the bathroom and a closet are accessed from the bedroom. An unenclosed deck (which is a Limited Common Element for the Unit) is accessed from the living room. An enclosed storage area, which is part of the Unit, is accessed from the deck.

2.5.2. Type A-2 Unit: One Bedroom, One Bath.

This Unit contains approximately 672 square feet. The entry door opens into the living room. The kitchen is accessed from the living room and a laundry area is accessed from the kitchen. A dining area, the bathroom and the bedroom are accessed from a short hallway off the living room. A closet is accessed from the bedroom. An unenclosed deck (which is a Limited Common Element for the Unit) is accessed from the living room. An enclosed mechanical and storage area, which is part of the Unit, is accessed from the deck.

2.5.3. Type A-2 Unit: One Bedroom, One Bath with Loft.

This Unit contains approximately 672 square feet on the lower level and 211 square feet on the loft level. The entry door opens into the living room. A dining area is accessed from the living room and the kitchen is accessed from the dining area. A laundry area is accessed from the kitchen. The bathroom and the bedroom are accessed from a short hallway off the living room. A closet is accessed from the bedroom. An unenclosed deck (which is a Limited Common Element for the Unit) is accessed from the living room. An enclosed mechanical and storage area, which is part of the Unit, is accessed from the deck. A stair leads from the living room, over the entry door, to a loft area overlooking the living room below. An attic storage area is accessed from the loft.

2.5.4. Type B-1 Unit: Two Bedroom, Two Bath.

This Unit contains approximately 968 square feet. The entry door opens into the living room. The entry door opens into a short foyer, and a bathroom is accessed from the foyer. Bedroom #2 is accessed from a hallway leading from the foyer, which bedroom also has access to the bath previously referenced. The kitchen is accessed from the other side of the hallway and a laundry area is accessed from the kitchen.. The hallway opens into a living room on one side and a dining area on the other. Bedroom #1 and a mechanical area are accessed from the living room.. A second bathroom and a closet are accessed from Bedroom #1. An unenclosed deck (which is a Limited Common Element for the Unit) is accessed from the living room. An

Westbury Record on Appeal 0323

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

enclosed storage area, which is part of the Unit, is accessed from the deck.

2.5.5. Type C-1 Unit: Three Bedroom, Two Bath.

This Unit contains approximately 1,216 square feet. The entry door opens into the living room on one side and a dining area on the other side. The kitchen is accessed from a hallway from the living room and a pantry area is accessed from the kitchen. Bedroom #3, a bathroom across the hallway from Bedroom #3, and Bedroom #2 are accessed from the hallway. Bedroom #2 also has access to the bathroom off the hallway from a short passageway. Two closets are also accessed from the short passageway. Bedroom #1 is also accessed from the hallway through a second short passageway. A laundry area, linen storage and mechanical area are also accessed from this second short passageway. A second bathroom is accessed from Bedroom #1 and a closet is accessed from the second bathroom.. An unenclosed deck (which is a Limited Common Element for the Unit) is accessed from Bedroom #3. An enclosed storage area, which is part of the Unit, is accessed from the deck.

3. COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.

3.1. COMMON ELEMENTS

The Common Elements consist of the entire Property other than the Units (see Section 2, above), Garage Units and Garage Common Elements (see Section 3.5.1, below). In addition to any other Common Elements shown or described on the Plans, Common Elements include the clubhouse, swimming pool, lakes and on-grade parking shown on the Plot Plan and other portions of the Plans; any Units, Garage Units, or other facilities owned by the Association and used, rented or leased by the Association or its designees for such purposes as conducting leasing, sales, administration, storage, or other activities determined by the Board of Directors to be beneficial to the Association or the Owners; the steps and foyers into the Buildings; the stairs and hallways outside Units; on-grade parking (but not Parking Structures, as defined in Section 3.5, below); driveways and walkways; yards; plantings in or on Common Elements; areas containing mechanical, electrical; telecommunications or other equipment serving more than one Unit and the equipment therein unless the property of others; trash rooms and storage rooms serving more than one Unit; Unfinished Perimeter Walls, Unfinished Ceilings and Unfinished Floors (as defined in Section 2.2) and adjacent insulation; joists, beams, supporting walls, columns, and other structural elements; roofs, slabs, footings and foundations; alarm and communications systems, appliances, mechanical equipment, electrical equipment, heating and air conditioning equipment, other equipment, doors, built-in fixtures, pipes, wiring, conduits, channels, drains, ducts, chases or other utility lines and similar elements that serve more than one Unit; plus personal property and assets held and maintained for the joint use and enjoyment of all the Unit Owners.

3.2. LIMITED COMMON ELEMENTS GENERALLY

Limited Common Elements are not part of a Unit but are Common Elements that are reserved or reasonably required for the use of one or more, but not all, Units. Limited Common Elements may include, without limitation, unenclosed decks, porches, terraces and patios; specified portions of Common Elements described in Section 3.1. Except as otherwise expressly stated in this Master Deed or any Supplement to the Master Deed, the costs of maintaining, repairing and replacing Limited Common Elements shall be Common Expenses of the Association as a whole. The Board of Directors may re-designate Common Elements as Limited Common Elements and re-assign the use of Limited Common Elements to specific Units to the fullest extent permitted by the Act.

3.3. DISPUTES REGARDING STATUS OR BOUNDARIES

Because of the structural characteristics and arrangement of much of the Property, disputes may arise regarding issues such as whether an element is part of a Unit, a Limited Common Element, or a Common Element, or a Garage Unit or Garage Common Element. Unit Owners or Garage Unit Owners, as applicable, shall attempt to resolve such matters in a fair manner. If a dispute arises between Unit Owners, between Garage Unit Owners, or between a Unit Owner or Garage Unit Owner and the Association as to what portion of the Property constitutes a Unit, Garage Unit, Common Element or Limited Common Element, or the proper allocation of any costs or expenses relating to such areas, the Board of Directors shall have the authority to determine the proper designation of the disputed element and the allocation of any costs or expenses involved,

Westbury Record on Appeal 0324

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

after such consultation with others as it may determine to be appropriate. The determination of the Board of Directors shall be set forth in writing, shall be made in good faith, and shall not be clearly inconsistent with this Master Deed.

3.4. PERCENTAGE INTERESTS OF UNITS IN COMMON ELEMENTS

A chart showing the Percentage Interest of each Unit Owner is set forth in Exhibit D. A chart showing the Percentage Interest of each Garage Unit Owner is set forth in Exhibit D-1.

3.5. GARAGE UNITS

3.5.1. Garage Units Generally.

3.5.1.1. A "Garage Unit" is one of the eighty (80) spaces contained in six (6) on-grade Parking Structures located on the Property and designated A through F. A "Garage Unit" is separate from a "Unit", as defined in this Master Deed. A Garage Unit consists solely of a numerically defined space within a Parking Structure and an undivided Percentage Interest in "Garage Common Elements". There are three types of Garage Units: Storage, Maintenance and Garage Use. The forty-four (44) Storage Garage Units typically contain approximately 55 square feet. The single Maintenance Garage Unit, located in Garage Structure B, contains approximately 220 square feet and will be dedicated to the Association as a Common Element. The thirty-five (35) Garage Units for Garage Use typically contain approximately 220 square feet, with the exception of two Garage Units in Garage Structure A, which contain approximately 340 square feet. All Garage Units are accessed from Common Elements of the Regime. The Plans at Exhibit C show the designation, general location, exterior characteristics, and the approximate dimensions of each Parking Structure and each Garage Unit

3.5.1.2. A Garage Unit extends vertically to the interior surface of that portion of the Parking Structure's ceiling that is above the defined horizontal space for the Garage Unit, excluding any trusses or other structural element. All structural elements of a Parking Structure, such as its roof, perimeter and party walls, ceiling, trusses, floors, foundation, and any exterior doors or fittings constitute Garage Common Elements in which every Owner of a Garage Unit (but not Owners of Units) has an undivided Percentage Interest, as set forth in Exhibit D-1.

3.5.2. Conveying or Renting Garage Units.

A Garage Unit shall be initially be conveyed in fee simple by deed from the Declarant to an Owner at closing of the sale of a Unit and the Garage Unit, if such Owner entered into a contract with the Declarant (or its authorized designee) to purchase both a Unit and the Garage Unit. Thereafter, a Garage Unit Owner may convey by deed or rent the Garage Unit to any Owner of a Unit for such compensation as shall be agreed upon by the parties. During the term of any rental or assignment, the Garage Unit Owner shall continue to be responsible for all obligations as a Garage Unit Owner, but the renter or assignee shall also be responsible for complying with all rules and regulations established by the Association for use of Garage Units. Immediately upon conveyance, rental or temporary assignment of a Garage Unit, the Garage Unit Owner shall notify the Association in writing of the conveyance, rental or assignment, identify the Person then owning or having temporary use of the Garage Unit, and provide such information regarding such Person as may be determined by the Association.

3.5.3. Ownership Only by Unit Owners.

A Garage Unit cannot be owned by any Person other than a Unit Owner. If a Garage Unit Owner conveys to another Person a Unit and the Garage Unit is not conveyed to such Person in the deed conveying the Unit (or a separate deed conveying the Garage Unit) then, in the absence of written evidence that the conveying Unit Owner still owns another Unit, the Garage Unit shall be deemed to have been automatically conveyed to the Person that purchased the Unit previously owned by such Garage Unit Owner.

3.5.4. Garage Budget.

The cost of maintaining, repairing, renovating and insuring the Parking Structures and establishing any reserves for such purposes shall be set forth in a "Garage Budget" that is separate from the Association operating Budget referenced in Section 12.2, below. The Garage Budget shall be determined in a manner similar to that for the Association operating Budget.

Westbury Record on Appeal 0325

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

3.5.5. Assessments for Garage Units.

In addition to other Assessments under this Master Deed, each Garage Unit Owner shall pay a "Garage Assessment" to the Association, as a Special Assessment (see Section 12.3, below), based on the revenues determined by the Board of Directors to be required to fund the expenses under the Garage Budget. The Garage Assessment for each Garage Unit Owner shall be based on the Percentage Interest of such Garage Unit as set forth in Exhibit D-1.

3.5.6. Application of Principles and Procedures.

The general principles and procedures set forth in this Master Deed that apply to the Property, Units and Common Elements shall also apply to Garage Units and Garage Common Elements unless they are clearly inapplicable or their application would cause an inequitable or inappropriate result. In matters related to Parking Structures, where the terms "Unit", "Common Elements", "Owner", or "Budget" are used, such terms shall normally be deemed to mean "Garage Unit", "Garage Common Elements", "Garage Unit Owner" and "Garage Budget", as reasonably applicable.

4. REPAIR AND MAINTENANCE.

4.1. UNIT REPAIR, MAINTENANCE AND DECORATION

Units shall be maintained in a good, safe state of repair consistent with applicable codes, this Master Deed, and applicable Rules and Regulations. An Owner shall not allow any action or work that will impair the structural soundness of a Building or Unit; impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of a Building or Unit, impair any easement; or, without express approval by the Board of Directors, damage or adversely affect Common Elements. All maintenance, repairs and replacements to a Unit shall be the responsibility of the Owner of the Unit. Each Owner shall be responsible for all damages to any other Unit or to Common Elements caused by the failure of the Owner to maintain or make timely and appropriate repairs that are the responsibility of such Owner except to the extent that the cost of such repair is paid or payable from insurance proceeds to the Association. Except as may be provided in the purchase and sale agreement between an Owner and the initial purchaser of the Unit, each Owner shall have the exclusive right and duty to paint, tile, wax, paper, or otherwise decorate or redecorate and to maintain and repair the interior surfaces of the walls, floors, ceilings, and doors forming the boundaries of such Owner's Unit and all walls, floors, ceilings, and doors within such boundaries.

4.2. COMMON ELEMENTS MAINTENANCE AND REPAIR

All maintenance, repairs and replacements to Common Elements shall be made by the Association and shall be charged to all Units as a Common Expense; provided that this shall exclude any maintenance, repairs and replacements to Parking Structures or to Limited Common Elements that are expressly made the responsibility of a specific Unit or Units by another provision of this Master Deed or any Supplement to the Master Deed. If any maintenance, repair, or replacement of any portion of the Common Elements is required because of the negligent or willful act or omission of an Owner or Occupant of a Unit, then such Owner and/or Occupant shall be responsible for such maintenance, repair, or replacement. Any expenses incurred by the Association for such maintenance, repair, or replacement that is not paid or payable from insurance proceeds to the Association shall be a personal obligation of such Owner; and, if the Owner fails to repay or cause to be repaid the expenses incurred by the Association in a timely manner after notice to the Owner of the amount owed, then the failure to so repay shall be collectible as a Special Assessment against the Unit and the Owner. The same principles shall apply to Garage Common Elements and Garage Units.

5. EASEMENTS.

5.1. EASEMENTS FOR ASSOCIATION

The Association and its directors, officers, agents and employees, including, but not limited to, any Management Agent of the Association and its officers, agents and employees, shall have a general right and easement to enter upon the Property in the performance of their respective duties, including, without limitation, the management, repair, maintenance and replacement of Common Elements. Except in situations that may then reasonably be thought to be emergencies or situations in which access may be needed to prevent damage to the Property, or unless otherwise expressly approved by the Owner(s) directly affected thereby, this easement shall be exercised only during

Westbury Record on Appeal 0326

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

normal business hours and then, whenever practicable, only upon advance notice to the Owner(s) directly affected thereby.

5.2. EASEMENT FOR DECLARANT

Declarant, its successors and assigns, shall have an alienable and transferable right and easement on, over, through, under, and across the Property for the purposes of (a) constructing, installing, maintaining, repairing and replacing portions of the Property or proposed Added Property, (b) storing materials, and (c) making such other uses of the Property as may be reasonably necessary or incident to the construction, renovation, repair, sale, rental and management of the Units, including, but not limited to, construction trailers, temporary construction offices, sales and rental offices, management offices, model residences, directional and marketing signs, and use of the Clubhouse or Units owned or rented by the Declarant; provided, however, that such rights shall not unreasonably interfere with the occupancy, use or enjoyment of a Unit by its Owner or Occupants. Except in situations that may then reasonably be thought to be emergencies or situations in which access is may be needed to prevent damage to the Property, or unless otherwise expressly approved by the Owner(s) directly affected thereby, this easement shall be exercised only during normal business hours and then, whenever practicable, only upon advance notice to any Owner(s) directly affected thereby. The exercise of such right and easement by Persons other than Declarant shall be undertaken only with the express approval of the Declarant. The Declarant shall have a transferable, perpetual power and authority to grant and accept easements to and from any private entity or public authority, agency, public service district, public or private utility or other Person, upon, over, under and across the Common Elements for constructing, installing, maintaining, repairing, inspecting and replacing television antennae or television cable systems, data transmission systems, security and similar systems, landscaping, walkways, lighting, and all utility facilities and services, including, but not limited to, storm and sanitary sewer systems and electrical, gas, telephone, water and sewer lines. The rights of the Declarant hereunder shall automatically be assigned to the Association upon conveyance by the Declarant of the last Unit and last Garage Unit to another Person, other than a mortgagee, or such earlier time as Declarant records a Supplement to the Master Deed relinquishing its rights under this Master Deed or this section.

5.3. EASEMENT FOR REPAIR, MAINTENANCE AND EMERGENCIES

Some Common Elements may be located within Units or Garage Units or may be conveniently accessible only through Units or Garage Units. The Owners of other Units or Garage Units and the Association shall have an irrevocable easement, to be exercised by the Association as the Owners' agent, to have access to each Unit or Garage Unit and to all Common Elements or Garage Common Elements from time to time for the maintenance, repair, removal, or replacement of any of the Common Elements or Garage Common Elements therein or accessible therefrom or for making inspections or repairs therein necessary to prevent damage to the Common Elements or Garage Common Elements or to any Unit or Garage Unit. Except in a situation that is then reasonably thought to be an emergency or a situation in which access is then reasonably thought to be needed to prevent damage to the Property, or unless otherwise expressly approved by the Owner(s) directly affected thereby, this easement shall be exercised only during normal business hours and then, whenever practicable, only upon advance notice to the Owner(s) of the Unit(s) or Garage Unit(s) directly affected thereby.

5.4. EASEMENTS FOR ENCROACHMENTS

The Property is subject to the following easements for encroachments between Units and the Common Elements:

5.4.1. In favor of all Owners so that they shall have no legal liability if any part of the Common Elements or Garage Common Elements (including Limited Common Elements) encroaches upon a Unit or Garage Unit or other Common Elements;

5.4.2. In favor of the Owner of each Unit or Garage Unit so that the Owner shall have no legal liability if any part of such Owner's Unit or Garage Unit encroaches upon the Common Elements, Garage Common Elements or upon another Unit or Garage Unit; and

5.4.3. In favor of all Owners, the Association, and the Owner of any encroaching Unit or

Westbury Record on Appeal 0327

Book2310/Page2026

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Garage Unit for the maintenance and repair of such encroachments.

Encroachments referred to this Section include, but are not limited to, encroachments caused by error, omission or variance from the original plans in the construction of the Common Elements, Garage Common Elements or any Unit or Garage Unit constructed; by error in the Plans or this Master Deed; by settling, rising, or shifting of the earth; or by changes in position caused by repair or reconstruction of any part of the Common Elements, Garage Common Elements or any Unit or Garage Unit in substantial conformity to the Plans.

5.5. PRIOR RECORDED EASEMENTS

The Property shall be subject to any easements shown on any prior recorded plat of the Property or shown or defined in this Master Deed.

5.6. GOVERNMENTAL EASEMENT

Police, fire, water, health and other authorized governmental officials, employees and vehicles shall have the right of ingress and egress to the Property, and any portion thereof, for the performance of their official duties, to the extent permitted by applicable law and any Rules and Regulations not contrary to applicable law that are adopted by the Board of Directors.

6. PERCENTAGE INTERESTS.

The Percentage Interest of Units is shown in Exhibit D. The Percentage Interest for Garage Units is shown in Exhibit D-1.

7. ASSOCIATION; ADMINISTRATION; VOTING; RECORDS.

7.1. THE ASSOCIATION; BOARD OF DIRECTORS

In order to provide for the effective administration of the Regime by the Unit Owners, Estate at Westbury Owners Association, Inc., a South Carolina not-for-profit corporation (the "Association") has been formed. The Association shall operate and manage the Regime and undertake and perform all acts and duties incident thereto in accordance with the provisions of this Master Deed and Bylaws of the Association, and the Rules and Regulations promulgated by the Association from time to time. The Board of Directors of the Association shall have authority to take all actions on behalf of the Association that do not require, by law, this Master Deed, or the Bylaws, a vote of by Owners, and the decision of the Board of Directors shall be binding upon the Association and the Owners. A copy of the initial Bylaws is annexed hereto and made a part hereof as Exhibit B.

7.2. MEMBERSHIP

The Owner of each Unit shall automatically be a member of the Association upon acquiring an ownership interest in a Unit. Membership in the Association shall be appurtenant to and not separable from ownership of a Unit. The membership of an Owner shall terminate automatically upon conveyance of title to the Unit previously owned by such Owner, regardless of the means by which such conveyance of title occurs. No Person holding any lien, mortgage or other encumbrance upon any Unit or Garage Unit shall be entitled solely by virtue of such lien, mortgage or other encumbrance to membership in the Association or to any of the rights or privileges of such membership. In the administration of the operation and management of the Regime, the Association shall have authority and power to enforce the provisions of this Master Deed, levy and collect Assessments in the manner hereinafter provided, and adopt, promulgate and enforce such rules and regulation governing the use of the Units, Common Elements, Garage Common Elements and Limited Common Elements as the Association may deem to be in the best interest of the Regime.

7.3. VOTING

The Owner of a Unit shall have the right to cast the number of votes attributable to the Percentage Interest of such Unit. Votes may be cast in person or by written proxy at all meetings of the Association. The holder of a proxy need not be an Owner. Unless a different number, and not less than a Majority in Interest, is specified in this Master Deed or in the Bylaws, all actions requiring a vote of the Owners shall require approval of a Majority in Interest. Cumulative voting is prohibited. Further details regarding voting shall be set forth in the Bylaws.

Westbury Record on Appeal 0328

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

7.4. RULES AND REGULATIONS

The Board of Directors shall have authority to adopt, amend or supplement Rules and Regulations from time to time governing the use, administration and operation of the Property, subject to the terms of this Master Deed and the Bylaws. The initial Rules and Regulations are set forth in Exhibit F attached hereto and incorporated herein by reference. Rules and Regulations, or amendments or supplements thereto, that are adopted from time to time in accordance with this Master Deed shall be valid even if not recorded.

7.5. EMPLOYEES, MANAGEMENT AGENT AND MANAGEMENT AGREEMENT

The Board of Directors may employ and dismiss Persons on behalf of the Association and/or select a Management Agent or Agents, each of which shall have such authority and shall receive such compensation as is set forth in writing and approved by the Board of Directors. The Declarant or an affiliate of Declarant may serve as Management Agent. A copy of any agreement between the Association and the Management Agent shall be provided to any Owner upon written request to the Board of Directors, provided that the Association may charge a reasonable fee for any costs of reproduction, postage or personnel incurred. No management agreement shall be for a term longer than one (1) year, provided that a management agreement may provide for automatic extension for additional terms of not more than one (1) year unless either party notifies the other party within a defined period prior to the expiration of the existing term that it wishes to terminate the agreement or re-negotiate the agreement.

7.6. INDEMNIFICATION

The Declarant, Board of Directors, officers of the Association, and such employees of the Association and/or the Management Agent as the Board of Directors shall specify by written resolution from time-to-time (cumulatively, "Non-Liable Persons"), shall not be liable to the Owners or the Association for any mistake in judgment or acts or omissions unless such act or omission was made in bad faith or was the result of gross negligence or fraud by such Person. The Association shall indemnify and hold harmless such Non-Liable Persons against all liabilities to others arising out of any agreement made by such Non-Liable Persons on behalf of the Association unless such agreement was made in bad faith, was the result of gross negligence or fraud by such Non-Liable Person, or was in clear violation of a contractual obligation of such Non-Liable Person to the Association.

7.7. BOOKS AND RECORDS

Current financial records of the Association and a copy of this Declaration and the articles of incorporation, Bylaws, and Rules and Regulations of the Association shall be available for inspection by an Owner or any agent authorized in writing by an Owner, at the offices of the Association or such other location in Beaufort County as may be designated by the Association. The inspection shall occur at reasonable times during normal business hours. The Association shall have the right to require written notice of the particular financial records to be inspected not more than five (5) business days prior to the inspection date (or such longer period as may be reasonable if the records sought are not readily available). The inspection shall be scheduled and conducted in such a manner that the operations of the Association are not unduly disrupted and the safety and integrity of the records are ensured. The Association may charge a reasonable fee to cover the reproduction, postage and administrative expenses incurred by the Association as a result of an inspection.

8. INSURANCE.

8.1. TYPES OF INSURANCE

If such insurance is available at reasonable cost, the Association shall endeavor to obtain insurance coverage, in such amounts and with such deductibles as it shall reasonably determine, for the Property (including the Units and Garage Units), other property of the Association, and the activities of the Association, to cover the insurable interests of the Owners, the Association and their mortgagees therein, and the directors, officers employees and agents, if any, of the Association. Such coverage shall exclude personal property of an Owner (see Section 8.3), but the Association may provide information to Owners regarding coverage that is available for such personal property. The insurance coverage that the Association shall endeavor to obtain shall include:

Westbury Record on Appeal 0329

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(i) loss or damage by fire, flood, earthquake or other casualty covered by standard extended coverage policies, based upon current replacement cost;

(ii) risks to the Property, such as vandalism, theft and malicious mischief;

(iii) comprehensive general public liability and, if applicable, automobile liability coverage, covering losses or damages resulting from accident or occurrences on or about the Property;

(iv) any coverage mandated by law or regulation, including, without limitation, worker's compensation coverage;

(v) fidelity insurance covering any person having access to or control over any substantial funds of the Association;

(vi) officers and directors, providing coverage against claims brought against the Board of Directors or any administrator or officers of the Association acting in such capacity; and for

(vii) such other insurance as the Association shall determine to be reasonable and desirable from time to time.

8.2. OTHER INSURANCE CRITERIA

The insurance coverage obtained by the Association shall, if feasible, provide that:

(i) the interest of the insured parties shall not be invalidated by any act or neglect of any Owner or any officer or member of the Board of Directors of the Association;

(ii) the coverage shall not be terminated for non-payment of premiums without at least thirty (30) days' prior written notice to the Association;

(iii) subrogation shall be waived by the insurer with respect to the Association and its Board of Directors, employees and agents, and with respect to Owners, members of their families or household, and mortgagees;

(iv) each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Elements or Garage Common Elements or membership in the Association; and

(v) if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

8.3. COLLECTION OF PREMIUMS FOR INSURANCE

Because consistent coverage for Units and Garage Units is essential as a result of their structural relationship and problems could ensue for other Owners and the Association if an Owner failed to properly insure the Owner's Unit or Garage Unit, insurance premiums and deductibles for the coverage set forth in Section 8.1 shall be a Common Expense of the Association, (a) except as set forth below and (b) except that insurance premiums and deductibles for coverage relating solely to Parking Structures shall be a Garage Common Expense payable only by Garage Unit Owners. If an insurer requires that coverage for the property value of a Unit, Garage Unit, or personal property of an Owner within a Unit or insurable events occurring within a Unit shall be in the name of the Association, rather than in the name of individual Owners or Garage Unit Owners, then premiums for such coverage shall (a) be allocated among Units and Garage Units in the same manner as the insurer determines to be reasonably allocable to each Unit and (b) be collected as a Special Assessment against the applicable Unit or Garage Unit, pursuant to Section 12.3.1. If the insurer does not allocate such premiums by Unit or Garage Unit, the premiums shall (a) be allocated among Units and Garage Units based on each Unit's or Garage Unit's Percentage Interest and (b) be

Westbury Record on Appeal 0330

Book2310/Page2029

collected as part of the Regular Assessment or as a Special Assessment against the applicable Unit or Garage Unit, pursuant to Section 12.3.1., as the Board of Directors shall determine. No Unit Owner or Garage Unit Owner may elect not to pay its proportionate share of the insurance obtained by the Association.

8.4. INSURANCE BY OWNERS

Each Owner, at such Owner's expense, shall obtain such insurance as the Owner determines is desirable for (a) furnishings and other personal property in the Unit or Garage Unit, (b) for liability insurance covering insurable events occurring within the Unit of such Owner (unless informed in writing by the Board of Directors that the insurance obtained by the Association provides coverage for events occurring within the Unit of such Owner), and (c) such other insurance coverage in relation to the Owner's Unit as the Owner determines is desirable, including property coverage for improvements to the Unit made by the Owner or a predecessor Owner that cause such Unit to differ from standard Units of a similar type. If approved by the Board of Directors, the Association may collect and pay premiums for such insurance as a Special Assessment against the applicable Unit(s), pursuant to Section 12.3.1. The existence of such insurance coverage is not intended to affect or replace any insurance coverage obtained by the Association, or give the Owner the right to refuse to pay such Owner's share of the premium for the insurance obtained by the Association, or cause the diminution or termination of such coverage obtained by the Association, or result in apportionment of insurance proceeds as between policies of insurance of the Association and the Owner. An Owner shall be liable to the Association for the amount of any diminution of insurance proceeds to the Association as a result of the existence or non-existence of insurance coverage maintained or required by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were a Special Assessment. Any insurance obtained by an Owner shall include a provision waiving the insurance company's right of subrogation against the Association and other Owners.

8.5. INSURANCE TRUSTEE

The Board of Directors may, at its discretion, retain any bank, trust company or South Carolina attorney or law firm, certified public accountant, or other Person authorized by law to act as trustee, agent or depository (the "Insurance Trustee") on behalf of the Association for the purpose of receiving or distributing any insurance proceeds. If so, the Board of Directors may delegate to the Insurance Trustee any powers or duties of the Association set forth in this Section 8. The Insurance Trustee shall not be liable for payment of premiums, the renewal or sufficiency of the policies, or failure to collect any insurance proceeds. The fees and reasonable expenses of the Insurance Trustee shall be a Common Expense.

8.6. USE OF PROCEEDS IF DAMAGE TO UNITS ONLY

If a loss occurs only to a Unit or Garage Unit, without any loss to Common Elements or Garage Common Elements, the Owner and any mortgagee of such Unit or Garage Unit shall use the proceeds of any insurance of the Association to effect necessary repairs to the Unit or Garage Unit. The Owner shall obtain estimates and/or bids for the cost of repairing and reconstructing the damaged Unit or Garage Unit. The Owner shall provide adequate information to the Association to confirm the cost of repairing and reconstructing the damaged Unit or Garage Unit, the existence of a valid contract to repair and reconstruct the damaged Unit or Garage Unit, and that the insurance proceeds are sufficient to pay for the same. The Association shall disburse the net insurance proceeds received because of the loss directly to the Owner of the damaged Unit(s) or Garage Unit(s) pursuant to such procedures as the Association shall reasonably determine. Because of the problems that could ensue for other Owners and the Association if an Owner failed to properly repair or reconstruct the Owner's Unit or Garage Unit, if the insurance proceeds are insufficient to pay the cost of the repair of the damaged Unit or Garage Unit, the Board of Directors may, in its sole discretion, subject the damaged Unit or Garage Unit to a Special Assessment for the remaining funds necessary to repair the Unit or Garage Unit.

8.7. USE OF PROCEEDS IF DAMAGE TO COMMON ELEMENTS ONLY

If loss occurs only to Common Elements (including Limited Common Elements) or Garage Common Elements, the Board of Directors or Insurance Trustee shall obtain estimates and/or bids for the cost of repairing and reconstructing the damaged Property and determine whether insurance

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

proceeds are sufficient to pay for the same. If the insurance proceeds are insufficient to pay the cost of the repair and reconstruction, the Board of Directors may, in its sole discretion, impose a Special Assessment on all Units to provide for the remaining funds necessary to repair or reconstruct the Common Elements or Garage Common Elements. The Association shall then promptly contract for the necessary repairs or reconstruction to the Common Elements or Garage Common Elements.

8.8. USE OF PROCEEDS IF DAMAGE TO BOTH UNITS AND COMMON ELEMENTS

Because of the administrative and construction coordination complications that can occur if a loss occurs to one or more Units and to Common Elements (including Limited Common Elements) or Garage Common Elements, the Board of Directors may determine that all insurance proceeds received as a result of such loss shall be delivered to the Association or Insurance Trustee. The Association or Insurance Trustee shall obtain estimates and/or bids for the cost of rebuilding and reconstructing the damaged Property and determine whether insurance proceeds are sufficient to pay for the same. Because of the problems that could ensue for other Owners and the Association if an Owner failed to properly repair or reconstruct the Owner's Unit, if the insurance proceeds are insufficient to pay the cost of the repair of the damaged Units, the Board of Directors may, in its sole discretion, subject the damaged Units to a Special Assessment for the remaining funds necessary to repair the Units. If the insurance proceeds are insufficient to pay the cost of the repair and reconstruction of the damaged Common Elements or Garage Common Elements, the Board of Directors may, in its sole discretion, impose a Special Assessment on all Units to provide for the remaining funds necessary to repair or reconstruct the Common Elements or Garage Common Elements. The Association shall then promptly contract for the necessary repairs and reconstruction of the Common Elements or Garage Common Elements and the damaged Units. If, however, in the sole opinion of the Board of Directors, the necessary repairs to the damaged Units are repairs that can be accomplished without detrimentally affecting other Owners or the Common Elements or Garage Common Elements, then the Association may allow the Owner of the Unit to contract directly for the repair of the Unit. In such event, the Owners or mortgagees of the damaged Units shall apply the insurance proceeds and any applicable Special Assessment to effect necessary repair and restoration to the Units.

8.9. USE OF EXCESS PROCEEDS

If funds of the Association remain after completion of repairs and reconstruction and payment of any Insurance Trustee's fees and other fees or costs, such funds shall be distributed (i) first, to the Unit Owners or Garage Unit Owners who paid Special Assessments for repair and reconstruction in the same proportion as their Special Assessment bears to all Special Assessments for repair and reconstruction, until all Special Assessments (and such imputed interest thereon, if any, as the Board of Directors determines is appropriate and reasonable) have been repaid, (ii) second, to such reserves of the Association as the Board of Directors shall determine is reasonable, and (iii) third, to the Unit Owners or Garage Unit Owners in proportion to their Percentage Interests.

8.10. WHEN RECONSTRUCTION NOT REQUIRED

In accordance with Section 27-31-250 of the Act, reconstruction is not mandatory if more than two-thirds of the Property must be reconstructed. If such provision of the Act is amended, then the amended provision shall apply.

8.11. CONTRACT ADMINISTRATION DURING RECONSTRUCTION

The Board of Directors, Insurance Trustee, Unit Owners and Garage Unit Owners shall endeavor to require all substantial contractors, suppliers and providers of services during repair and reconstruction to deliver waivers of mechanics liens on the Property and execute any affidavit required by law or reasonably required by any insurer or the Association.

8.12. RIGHTS OF MORTGAGEES

No holder, insurer or guarantor of the mortgage on a Unit or Garage Unit (a "Mortgagee") shall have any right to participate in the determination of whether any portion of the Property is to be rebuilt, nor shall any Mortgagee have the right to require that insurance proceeds be used to repay its loan, except in accordance with this Section 8. Notwithstanding, any Mortgagee that has

Westbury Record on Appeal 0332

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

provided to the Association the information required by Section 10.5, below, shall have the right to timely written notice by the Association of (a) any condemnation or material casualty loss that adversely affects either a material portion of the Property subject to this Master Deed or the Unit securing the mortgage of such Mortgagee; (b) any delinquency exceeding 60 days in the payment of the Assessments or charges owed to the Association by the Owner of the Unit securing the mortgage of such Mortgagee; (c) a lapse, cancellation or material modification of any insurance policy maintained by the Association relating to the Unit securing the mortgage of such Mortgagee; and (d) any proposed action that requires the consent or approval of a specified percentage of Mortgagees.

8.13. ATTORNEY-IN-FACT FOR OWNER

Each Owner hereby irrevocably constitutes and appoints the Board of Directors and any Insurance Trustee, or either of them, as such Owner's true and lawful attorney-in-fact for the purpose of dealing with any matters relating to the Unit or Garage Unit of the Owner and arising under this Section 8. As attorney-in-fact, the Board of Directors and any Insurance Trustee, or either of them, may execute all documents with respect to the interest of the Owner that may be necessary or appropriate to the powers granted hereby.

9. CONDEMNATION.

9.1. IF RESTORATION WILL OCCUR

If the Property or any part thereof shall be taken or condemned by any authority having a power of eminent domain, any compensation therefor shall be payable to the Association or such bank, trust company or law firm authorized to do business in South Carolina as the Board of Directors shall designate as Trustee for all Unit Owners, Garage Unit Owners and Mortgagees affected thereby, according to the loss or damages to the Common Elements, Garage Common Elements, Units and Garage Units. To the extent deemed feasible by the Board of Directors, such proceeds shall be used by the Association to restore or replace the condemned Property on the remaining Property. In so doing, the Association shall follow the concepts and procedures set forth in the preceding Section 8, as applicable.

9.2. IF RESTORATION WILL NOT OCCUR

If the Board of Directors determines that such restoration or replacement is impracticable, the Association shall, with the proceeds received from such condemnation or taking, remove all necessary remains of such improvements so taken or condemned, restore the remaining Property affected to good and orderly condition, and equitably distribute any remaining proceeds from such condemnation or taking to the Association, Unit Owners or Garage Unit Owners affected thereby. In so doing, the following principles shall apply:

9.2.1. The total amount allocated to a taking of or injury to the Common Elements or Garage Common Elements shall be apportioned among Owners on the basis of each Owner's Percentage Interest in the Common Elements or Garage Common Elements.

9.2.2. The respective amounts allocated to the taking of or injury to a particular Unit shall be apportioned to the Owner of that particular Unit or Garage Unit involved.

9.2.3.The total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Board of Directors determines to be equitable.

10. MISCELLANEOUS.

10.1. UNIT AND GARAGE UNIT MORTGAGES

Each Unit Owner shall have the right, subject to the provisions hereof, to make a separate mortgage or encumbrance on his Unit and any Garage Unit owned by such Unit Owner. No Unit Owner or Garage Unit Owner shall have the right to make or create, or cause to be made or created, any mortgage, encumbrance or other lien on or affecting other Property.

10.2. REAL ESTATE TAXES

It is intended that real estate taxes, assessments, and other charges of any taxing or assessing authority shall be separately assessed against each Unit and Garage Unit and the Unit's or Garage

Westbury Record on Appeal 0333

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Unit's corresponding Percentage Interest in the Common Elements or Garage Common Elements. If such taxes, assessments or charges are taxed on the Property as a whole, then each Unit Owner shall pay its proportionate share thereof in accordance with the Unit's and Garage Unit's respective Percentage Interest. In such instance, the Board of Directors shall endeavor to determine the amount due and notify each Unit Owner and Garage Unit Owner as to the real estate taxes payable for such Unit and Garage Unit. No forfeiture or sale of the Property as a whole for delinquent taxes, assessments, or charges shall ever divest or in any way affect the title to an individual Unit or Garage Unit so long as the applicable tax, assessment, or charge on the Unit and Garage Unit is currently paid in a timely manner.

10.3. RESTRICTIONS ON RENTALS AND INTERVAL OWNERSHIP

In order to alleviate problems of security and disruption associated with frequent changes in occupancy, Units and Garage Units shall not (a) be divided into or operated as "timeshares" or interval ownership segments or (b) be leased or rented for periods less than one hundred eighty (180) consecutive days. Any lease or rental agreement shall be in writing and the Unit Owner shall ensure that Occupants of the Units understand and fully comply with the provisions of this Master Deed and the Rules and Regulations. If rented or leased, the Unit Owner shall notify the Management Agent or such other entity as the Board of Directors shall determine, in writing, in advance of occupancy, of the name(s), home address(es), and home telephone number of the renter(s) or lessee(s). If requested by the Management Agent or the Board of Directors, the renting or leasing Owner shall provide evidence reasonably satisfactory to the requesting entity to confirm the term of rental or lease.

10.4. NOTICE OF SALE OR OTHER CONVEYANCE

If an Owner sells or otherwise conveys a Unit or Garage Unit, the conveying Owner shall promptly cause to be furnished to the Association, in writing, the name, home address and home telephone number of such purchaser or transferee and the forwarding address of the conveying or leasing Owner. The Association may require a transferor or transferee Owner to provide a copy of the deed or other instrument by which the Unit or Garage Unit was conveyed. When any Person receives title to a Unit or Garage Unit by devise or inheritance, or by any other method not heretofore considered, it shall be the responsibility of the Person acquiring title to notify the Association that such transfer has occurred and to provide the information set forth above.

10.5. INFORMATION REGARDING MORTGAGEES

Any holder, insurer or guarantor of the mortgage on a Unit or Garage Unit (a "Mortgagee") may provide to the Association from time-to-time, in writing, current information regarding its mortgage interest in any Unit. Such information shall include the Unit or Garage Unit number and address; the name of Owner(s) of the Unit or Garage Unit; the name, address, telephone and facsimile number of the Mortgagee and the name of a contact person or persons for the Mortgagee. If the interest of the Mortgagee is terminated or the interest of the Mortgagee is lawfully assigned to another entity, the Mortgagee shall promptly notify the Association of such termination or assignment, including comparable information regarding any assignee of its interest. If any request for approval or consent is sent by certified or registered mail to a Mortgagee at its address of record by the Association, the Declarant, or their authorized agent, and no responsive written answer is received from the Mortgagee within 21 calendar days of such notice, then the approval or consent requested shall be deemed to have been given by the Mortgagee.

11. NOTICES.

11.1. NOTICE PROCEDURE

Whenever notice is required or permitted under the terms of this Master Deed, it shall be in writing and (a) personally delivered or (b) sent postage or delivery charges prepaid either (i) by United States mail, certified, return receipt requested, in which case notice shall be deemed to occur on the certified date of delivery or rejection of delivery or (ii) if within the United States, by First Class or Priority United States mail, in which case notice shall be deemed to occur four (4) calendar days after date of postmark, or (iii) by any dependable delivery service that provides evidence of delivery, in which case notice shall be deemed to occur on the certified date of delivery. Notices by other methods, such as facsimile or e-mail transmission, shall be valid if the recipient thereof acknowledges receipt in writing.

Westbury Record on Appeal 0334

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

11.2. ADDRESSES

All notices to Owners shall be delivered or sent to such address as has been provided , in writing, from time to time, by the Owner to the Association, or if no address has been so provided to the Association or no current address is known, then at the address of the Owner of the Unit on the property tax records of Beaufort County, South Carolina or at any other address that would constitute a valid address for service of process.

All notices to Declarant shall be delivered to:

Montecito Westbury, LLC
c/o Montecito Property Company, LLC
7785 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7561

or to such other address as has been provided, in writing, from time to time, by the Declarant to the Association.

All notices to the Association shall be delivered in care of the Association at:

Estate at Westbury Owners Association, Inc.
c/o Management Agent
85 Kensington Boulevard
Bluffton, SC 29910

or to such other address as has been provided, in writing, from time to time, by the Association.

All notices to Mortgagees shall be delivered or sent to such address as has been provided, in writing, from time to time, to the Association pursuant to Section 10.5, above, or to any other address that would constitute a valid address for service of process.

12. ASSESSMENTS.

12.1. PURPOSE OF ASSESSMENTS

The Assessments shall be used to accomplish the provisions set forth in this Master Deed and to promote the health, safety, convenience and general welfare of the Owners, including the improvement and maintenance of the Common Elements or Garage Common Elements, as applicable.

12.2. REGULAR ASSESSMENTS AND BUDGET

12.2.1. Fiscal Year and Annual Budget

The fiscal year of the Association shall be the calendar year. Unless otherwise determined by the Board of Directors, the Board of Directors shall prepare or cause to be prepared by December 1 an operating budget (the "Budget") for the next fiscal year setting forth the estimated Common Expenses and anticipated revenues of the Association for such fiscal year, and any projected deficit or surplus from the preceding fiscal year. (In the initial year after recordation of this Master Deed, the Board of Directors may, in its sole discretion, prepare or cause to be prepared the Budget for the balance of the current fiscal year.) The Budget, once approved by the Board of Directors, shall serve as the basis for Assessments to all Owners (the "Total Assessments") for such fiscal year and the primary guideline under which the Association shall be projected to be operated during such fiscal year; provided, however, that the Board of Directors may, in its sole discretion, submit the proposed Budget to a vote of the Owners. If the Association fails for any reason to adopt a Budget for the fiscal year, then until such time as it is adopted, the Budget and Total Assessments in effect for the current year shall automatically be increased effective the first day of the fiscal year in the same proportion as any percentage increase during the current Year over the preceding Year, in the Consumer Price Index, all Urban Consumers, United States City Average, All Items (the "CPI") or its successor index, as determined by the Board of Directors. In order to provide time to determine any applicable increase, the "Year" for determining the CPI shall be measured from October 1 through September 30. Such adjusted Budget shall be the Budget for the succeeding year, until a new Budget is adopted. The Association shall furnish to each Unit Owner a copy of the Budget for the forthcoming fiscal year and a statement of the amount of the Assessment payable by such

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Owner for the fiscal year. (For information on Garage Budget, see Section 3.5.4, above.) The same principles shall apply to the Garage Budget.

12.2.2. Financial Statement

Within ninety (90) days following the close of the Association's fiscal year, the Board of Directors shall endeavor in good faith to cause an unaudited or audited financial statement of the Association (the "Annual Report") to be prepared by a public accountant licensed to practice in the State of South Carolina. Upon written request, a copy of the Annual Report shall be provided to any Owner of any Unit, but the Association may charge a reasonable fee to cover the reproduction, postage and administrative expenses incurred.

12.2.3. Elements of Budget

The Budget and the Assessments shall be based upon annual estimates by the Association of its revenues and its cash requirements to pay all estimated expenses and costs arising out of or connected with the use, maintenance and operation of the Common Elements and the operation of the Association. Such estimated expenses and costs may include, among other things, the following: expenses of management, including compensation of any Management Agent; taxes and assessments; insurance premiums and deductibles; repairs and maintenance; wages and personnel expenses for Association employees; utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of one or more reasonable contingency reserves and/or sinking funds for existing or anticipated expenses or costs of the Association; any principal and interest payments due for debts of the Association; and any other expenses, costs and existing or projected liabilities that may be incurred by the Association. Such expenses and costs shall constitute the "Common Expenses". The same principles shall apply to the Garage Budget.

12.2.4. Apportioning Assessments

Except as expressly stated in this Master Deed, the Owner of each Unit shall pay that percentage of the Assessments as the Percentage Interest for such Unit bears to all Percentage Interests. The same principles shall apply to Garage Units and Garage Percentage Interests.

12.2.5. When Assessments Are Payable

Unless the Board of Directors elects a different payment period, the Assessments shall be due and payable monthly, prior to the first day of the month to which the Assessments apply. After a Unit Owner has been notified of the amount of the periodic Assessment, no further notice of the Assessment due shall be required.

12.3. SPECIAL ASSESSMENTS

12.3.1. Special Assessments by Board of Directors

In addition to the regular Assessments authorized above, the Board of Directors may levy Special Assessments applicable to no more than a three (3) year period to cover costs such as any unbudgeted property taxes or assessments; in the event of an insured loss or claim, any deductible amount under the insuring policy; and unbudgeted repairs, costs, fees or expenses, etc. of any construction, reconstruction, repair, demolishing, replacement, renovation or maintenance of the Common Elements. Except as set forth below, Special Assessments shall be allocated among Units in the same manner as other Assessments. In addition to Special Assessments of all Units, the Association may levy a Special Assessment against a particular Unit (i) to cover the costs of providing services to or on behalf of a particular Unit or Owner of such Unit at the request of such Owner or (ii) to cover costs incurred as the result of the failure of the Owner or Occupants of the Unit, their agents, guests, invitees or licensees, to execute any responsibility they may have under this Master Deed, the Bylaws or the Rules and Regulations. The same principles shall apply to Special Assessments for Garage Units.

12.3.2. Special Assessments with Owner Approval

Any other Special Assessment shall be approved by a Majority of Owners (or Garage Unit Owners, if applicable to Garage Common Elements), as defined in Section 1. Meetings or votes of Owners for the special purpose of considering a Special Assessment shall be held only after written notice by the Association to the Owners of the Units, in accordance with the notice procedure set forth in the Bylaws. The meeting or vote shall occur no earlier than the date specified in the Bylaws for a special meeting of the Association. The notice shall state generally the purpose and amount of the proposed Special Assessment.

Westbury Record on Appeal 0336

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

12.3.3. When Special Assessments Are Due

Special Assessments shall be payable by the date determined by the Board of Directors, but no earlier than fourteen (14) days after notice of such Assessment shall have been given to the Owner.

12.4. INITIAL WORKING CAPITAL ASSESSMENT

In order to provide the Association with adequate working capital funds, the Association shall collect from a new Owner of a Unit, at the time of transfer of ownership to such Owner, an amount equal to one sixth (1/6) of the annual regular Assessment for such Unit in effect at the time of the transfer. This provision shall not apply to any transfer of ownership which is exempt from the imposition of a deed recording fee under South Carolina law (currently, South Carolina Code Section 12-24-40). The Association may maintain the working capital funds in one or more reserve accounts to meet unforeseen expenditures or use the funds to pay Operating Expenses of the Association. Such payments shall not be considered advance payments of regular Assessments and shall not be refundable at the time of transfer of ownership by the Owner making the payment. In the event of non-payment of the Working Capital Assessment, the amount due shall be collected as a Special Assessment pertaining to that Unit only. No Working Capital Assessment shall be applicable to Garage Units.

12.5. EFFECT OF NON-PAYMENT OF ASSESSMENTS

Any Assessment (including any Special Assessment) that is not paid to the Association when due shall be delinquent. The Board of Directors may levy a "late charge" not to exceed five percent (5%) of the amount due, plus simple interest at a rate not to exceed five (5) percent over the Prime Lending Rate as set forth in The Wall Street Journal from the date when the Assessment is due until the date it is received by the Association. Such charges shall be added to and collected in the same manner as other Assessments. The Board of Directors may, in its sole discretion, waive all or any portion of such charges or interest if it determines that the failure to pay the Assessment or charge when due was caused by circumstances beyond the control of the Owner or other good cause. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Elements or abandonment of his Unit.

12.6. LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS

Assessments, including Special Assessments, interest and charges thereon, and costs of collection thereof (including reasonable attorneys' fees and expenses) shall be (i) the personal obligation of the Person who was the Owner of such Unit or Garage Unit at the time when the assessment was due and, unless expressly agreed by the Association, also of any subsequent Owner, (ii) a charge on the Unit or Garage Unit to which such assessments are applicable and (iii) a continuing lien and encumbrance upon such Unit or Garage Unit in favor of the Association. To evidence a lien for sums assessed pursuant to this Section, the Association may prepare a written notice of lien setting forth the amount of the unpaid Assessment or Special Assessment, the due date, the amount remaining unpaid, including any interest or charges, the name of the Owner of the Unit or Garage Unit, and a description of the Unit or Garage Unit. Such notice shall be signed and acknowledged by a duly authorized officer of the Association or any Management Agent of the Association and may be recorded in the Register of Deeds for Beaufort County. No notice of lien shall be recorded until there is a delinquency in payment of the Assessment, but notice of lien shall not be a condition precedent to or delay the attachment of the lien, which shall attach on the date that the Assessment is levied or the date of the event that gives rise to the obligation to pay the Association. Such lien may be enforced as set forth in this Master Deed or otherwise permitted by law.

12.7. SUBORDINATION OF LIEN; MORTGAGEE RIGHTS

Unpaid Assessments then due and payable on a Unit or Garage Unit shall be paid by the conveying Owner at the time of any conveyance of the Unit or Garage Unit, or, if not paid, shall be payable by the Person to which the Unit or Garage Unit is conveyed. Pursuant to Section 27-31-210 of the Act, the lien on a Unit or Garage Unit for unpaid Assessments shall be subordinate to the liens for any unpaid taxes and any duly recorded prior mortgage or other duly recorded lien on the Unit or Garage Unit. Sale or transfer of any Unit or Garage Unit shall not affect the lien for unpaid Assessments. However, pursuant to Section 27-31-210(b) of the Act, if a mortgagee of any mortgage of record or other purchaser of a Unit or Garage Unit obtains title at a foreclosure sale, the

Westbury Record on Appeal 0337

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Person acquiring title shall not be liable for Assessments allocable to the Unit or Garage Unit that accrued after the date of recording of the mortgage and prior to the acquisition of title at the foreclosure sale. Unless the Board of Directors determines that such unpaid Assessments shall be waived or reduced by the Association, such unpaid Assessments shall be deemed Common Expenses collectible from all Unit Owners, including the Person acquiring title, its successors and assigns, in accordance with their respective Percentage Interests.

12.8. STATEMENT OF ACCOUNT

Upon written request of any Owner, mortgagee, lessee, prospective mortgagee, or prospective purchaser or lessee of a Unit, the Association or its duly authorized agent shall issue a written statement (which shall be conclusive upon the Association) setting forth the following:

(i) The amount of unpaid annual Assessment or Special Assessment, if any, applicable to such Unit.

(ii) The amount of the current annual Assessment and any current Special Assessment and the date or dates upon which any payment thereof shall become due.

(iii) The amount of any credit for advance payments of annual Assessments or Special Assessments.

The Association may charge a reasonable fee to cover the reproduction, postage and administrative expenses incurred in providing such a statement. Unless such written statement is delivered within twenty-one (21) calendar days after receipt of the request (or such longer period as is authorized in the request) and any reasonable fee charged by the Association, the Association shall have no right to assert a priority lien on the Unit for the amount of unpaid annual Assessment or Special Assessment, if any, applicable to such Unit.

13. REMEDIES OF ASSOCIATION.

13.1. REMEDIES AND ENFORCEMENT

Each Owner shall comply with this Master Deed, the Bylaws and the Rules and Regulations adopted pursuant to this Master Deed, as they may be amended from time to time. Failure to comply shall be grounds for the Association to impose fines (as a Special Assessment and after notice as set forth in Section 12.3.3); institute an action to recover sums due, for damages, for injunctive or equitable relief, or for specific performance; or exercise any other enforcement right that may exist in law in equity. Such actions shall be maintained by the Board of Directors on behalf of the Association. The Association may bring an action at law against a delinquent Owner personally for the collection of any delinquent Assessment or Special Assessment, or foreclose the lien against the delinquent Owner's Unit in the same manner in which a mortgage on real property may be foreclosed in the State of South Carolina. The Association shall have the right to bid in at any foreclosure sale, and, upon conveyance to the Association, thereafter hold, lease, mortgage, or convey the subject Unit. Failure on the part of Declarant or the Association to exercise any right, power or remedy herein provided shall not be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to any violation or breach occurring prior to subsequent thereto. No right of action shall accrue in favor of and no action shall be brought or maintained by any Person against Declarant or the Association because of its failure to bring an action as a result of any purported or threatened violation or breach by any Person of the provisions of this Master Deed, the Bylaws or any Rules and Regulations of the Association.

13.2. ATTORNEYS FEES AND COSTS

In any suit, arbitration, counterclaim or other legal action by the Declarant or the Association to enforce any of the provisions of the Master Deed or the Bylaws, or any appeal thereof, if the Declarant or the Association is the prevailing party, the Declarant or the Association shall be entitled to recover its costs and disbursements and reasonable attorneys' fees and expenses from any other party to the suit or action that is subject to this Master Deed.

13.3. DISCHARGE OF MECHANIC'S LIENS

The Association may cause to be discharged any mechanic's lien or other encumbrance that in the opinion of the Association may constitute a lien against the Common Elements. If less than

Westbury Record on Appeal 0338

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

all of the Owners are responsible for the existence of said lien, the Owners responsible, as determined by the Board of Directors, shall be jointly and severally liable for the amount necessary to discharge the same, and for all related costs and expenses, including attorney's fees and court costs, incurred by reason of the lien.

14. AMENDMENTS.

14.1. AMENDMENT TO MASTER DEED BY ASSOCIATION

Amendments to this Master Deed, other than those authorized by Sections 14.2 and 14.2, below, shall be approved by at least two-thirds (2/3rds) of the Percentage Interests then existing, in accordance with the procedure set forth in the Bylaws; provided, however, (a) no amendment that imposes a greater economic or legal burden on Declarant than the burden that exists under the current provisions of this Master Deed shall be valid unless it is approved, in writing, by Declarant, and (b no amendment that increases the Percentage Interest of any Owner shall be valid unless it is approved, in writing, by the affected Owner(s).

14.2. AMENDMENTS TO MASTER DEED BY DECLARANT

Notwithstanding any other provision herein or in the Bylaws, Declarant may amend or supplement this Master Deed without the consent of the Association, any Owner, any easement grantee, or any mortgagee if, in Declarant's opinion, based on advice of legal counsel, such amendment is necessary to (a) correct any scrivener's error in this Master Deed; (b) bring any provision of the Master Deed into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination that is in conflict with this Master Deed; (c) enable any reputable title insurance company to issue title insurance coverage with respect to any Units subject to this Master Deed; (d) enable any mortgagee to make mortgage loans, on reasonable terms; (e) enable any insurer to provide insurance required by this Master Deed; or (f) clarify any provision of this Master Deed or eliminate any conflict between provisions of this Master Deed.

14.3. AMENDMENTS TO RULES AND REGULATIONS

Amendments to Rules and Regulations may be made by a majority of the Board of Directors.

15. GENERAL.

15.1. TITLE

Every Unit Owner and Garage Unit Owner shall promptly cause to be duly recorded with the Register of Deeds for Beaufort County the deed or other document conveying the Unit or Garage Unit to such Owner. Upon written request of the Association, the Owner shall file a true copy of such evidence of title with the Association or its designee.

15.2. APPLICABLE LAW AND INTERPRETATION

This Master Deed and the Bylaws shall be construed in accordance with the laws of the State of South Carolina. In all cases, the provisions set forth or provided for in this Master Deed shall be construed together, given that interpretation that is reasonable, be liberally interpreted and, if necessary, be extended or enlarged by reasonable implication as to make them fully effective. The captions herein as to the contents of various portions of the Master Deed are inserted only for convenience and are not to be construed as defining, limiting, extending or otherwise modifying or adding to the particular provisions to which they refer. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to any Person, as defined herein, shall in all cases be assumed where reasonably required. The effective date of this Master Deed shall be the date of its filing for record in the Register of Deeds for Beaufort County, South Carolina.

15.3. CONFLICTS WITH ACT OR LAW

This Master Deed is intended to comply with the Act and, to the extent reasonable, shall be so construed. If any provision of this Master Deed clearly conflicts with a mandatory provision of the Act or applicable law, the provisions of the Act or applicable shall apply and control. If such conflict invalidates any provision of this Master Deed, such invalidation will not affect any of the other provisions contained herein unless the result would clearly be inequitable, and the other provisions shall remain in full force and effect.

Westbury Record on Appeal 0339

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

15.4. TRANSFER OF DECLARANT'S RIGHTS

Unless the transfer of a right or interest of Declarant is expressly stated in this Master Deed to occur upon the earlier happening of a defined event, any right or interest of Declarant reserved or contained in this Master Deed may be transferred or assigned by the Declarant to any Person, either separately or with other rights or interests, by written instrument executed by both Declarant and the transferee and recorded in the Register of Deeds for Beaufort County, South Carolina.

15.5. MODIFYING SYSTEM OF ADMINISTRATION OF ASSOCIATION

The system of administration of the Association may be modified in accordance with the provisions of South Carolina Code Section 27-31-160 or any successor statute defining the applicable procedure.

THE BALANCE OF THIS PAGE IS INTENTIONALLY BLANK.

IN WITNESS WHEREOF, the Declarant has hereunto set its Hand and Seal this 25th day of January, 2006.

WITNESSES:

MONTECITO WESTBURY, LLC
A Delaware limited liability company

By: Janice R. Long

Print Name: Janice R. Long
Its: Vice President

STATE OF FLORIDA)

COUNTY OF DUVAL)

ACKNOWLEDGMENT

I, CYNTHIA GONZALES **a Notary Public, hereby certify that**

JANICE R. LONG **, as Vice President of Montecito Westbury, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.**

Subscribed to and sworn before me this 25th **day of** JANUARY **, 2006.**

(SEAL)

Signature of Notary Public
Notary Public for Florida

My Commission Expires: December 6, 2008

CYNTHIA S. GONZALES
MY COMMISSION EXPIRES
December 6, 2008
#DD 377334
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "A": LEGAL DESCRIPTION

ALL that certain piece, parcel or tract of land in Bluffton Township, Beaufort County, South Carolina, containing 20.00 acres, more or less, shown on a plat entitled "ALTA/ACSM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D. Bluffton Township, Beaufort County, South Carolina" prepared by Terry S. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998 and revised October 28, 1998, and recorded in the Register of Deeds for Beaufort County, South Carolina in Plat Book 67 at Page 118, further and last revised January 26, 1999 and recorded February 23, 1999 in Plat Book 69 at page 23.

Together with certain non-exclusive access, utility, signage and drainage easements appurtenant thereto.

Being the same property conveyed to Montecito Westbury, LLC by deed of Westbury Park Apartments, Ltd. dated October 28, 2005 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina on November 2, 2005 in Book 2261 at Page 1673.

Being TMS Number 600-031-000-0266-0000.

Declarant's Address:

Montecito Westbury, LLC
c/o Montecito Property Company, LLC
7785 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7561

Westbury Record on Appeal 0342

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "B": BYLAWS

BYLAWS

OF ESTATE AT WESTBURY OWNERS ASSOCIATION, INC.

A South Carolina Nonprofit Mutual Benefit Corporation

Pursuant to the provisions of the South Carolina Nonprofit Corporation Act and the South Carolina Horizontal Property Act, the Board of Directors of Estate at Westbury Owners Association, Inc., a South Carolina nonprofit mutual benefit corporation, has adopted the following Bylaws for such corporation.

1. NAME AND PRINCIPAL OFFICE

1.1. Name.

The name of the nonprofit corporation is "Estate at Westbury Owners Association, Inc.", hereinafter referred to as the "Association".

1.2. Offices.

The principal offices of the Association shall be in South Carolina.

2. DEFINITIONS

2.1. Definitions.

Except as otherwise provided herein or required by the context hereof, all capitalized terms used herein are intended to have the same meaning as any similar terms set forth in the Master Deed of The Estate at Westbury Horizontal Property Regime (the "Master Deed"), if such Master Deed is then recorded in the office of the Register of Deeds for Beaufort County, and all amendments or supplements thereto filed for record from time to time.

3. MEMBERS; VOTING AND MEETINGS

3.1. Members.

Each Owner of a Unit shall be a Member of the Association. If the Member is a corporation, partnership, limited liability company, trust, tenancy in common, joint tenancy, or similar entity or ownership arrangement, it is the entity or ownership arrangement which is the Member, and not each shareholder, partner, member, beneficiary or trustee, joint tenant or tenant in common, etc. who is a Member. In order to permit the efficient administration of the business and operations of the Association, the rights and authority of Members are limited to the extent set forth in the Master Deed or these Bylaws unless otherwise required by applicable law.

3.2. Notice of Ownership.

In order to confirm Membership, upon purchasing a Unit in The Estate at Westbury Horizontal Property Regime, the Owner of such Unit shall promptly furnish to the Association a legible copy of the instrument conveying ownership to the Owner (e.g. a recorded deed), which copy shall be maintained in the records of the Association. This provision shall not apply to the Declarant or any Owner of a Unit who purchases his Unit from the Declarant.

3.3. Annual and Regular Meetings.

The first meeting of the Members shall be held within one (1) year from the date of recording of the Master Deed. Unless otherwise determined by the Board of Directors, subsequent annual meetings shall be held on such dates and at such location in Beaufort County, South Carolina as the Board of Directors may determine.

3.4. Special Meetings.

Pursuant to South Carolina Code Section 33-31-702, a special meeting of the Members shall be held (a) upon the call of the President of the Association or the Board of Directors, or (b) if the holders of at least five percent (5 %) of the Percentage Interests sign, date and deliver to an officer of the Association a written demand for a special meeting describing the purpose for which it is to be held. (The close of business on the thirtieth [30th] day before delivery of the written demand is the record date for determining whether the five percent (5 %) requirement has

Westbury Record on Appeal 0343

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

been met.) If a notice for a special meeting demanded under (b) is not given within thirty (30) days of the date the written demand is properly delivered to an officer of the Association, a person signing the demand may set the time and place of the meeting in Beaufort County, South Carolina and give notice in accordance with these Bylaws. Only those matters that are within the purposes described in the meeting notice may be conducted at a special meeting.

3.5. Notice of Meetings.

Unless a shorter time is permitted by applicable law, the Association shall notify Members of the place, date and time of each meeting or ballot in lieu of a meeting at least ten (10) days prior thereto. Notice shall be given in accordance with the procedure set forth in Section 10. A Member may waive any notice required by these Bylaws or applicable law by written waiver, signed by the Member, delivered to the Secretary or President of the Association or the Board of Directors, either before or after the event. Attendance by a Member at a meeting or participation in a ballot waives objection to lack or notice or defective notice thereof unless the Member, prior to the end of the meeting or ballot, submits a written objection to the meeting or ballot.

3.6. Voting by Members.

3.6.1. In all votes or ballots by Members, each Owner of a Unit or Garage Unit shall have the same number of votes as the Percentage Interest of such Unit or Garage Unit, unless otherwise expressly required by law. The Percentage Interest of each Unit and Garage Unit is defined in the Master Deed.

3.6.2. Pursuant to South Carolina law, in decisions requiring the approval of Members, at least fifty-one percent (51%) of the Percentage Interests shall be required to constitute approval.

Example: Members having thirty percent (30%) of the cumulative Percentage Interests vote to approve a matter and Members having twenty-five percent (25%) of the cumulative Percentage Interests vote not to approve the matter. Although fifty-five percent (55%) of the cumulative Percentage Interests cast votes, and at least fifty-one percent (51%) of those casting votes voted to approve the matter, approval did not occur. In this example, fifty-one percent (51%) of all Percentage Interests would have to vote to approve the matter. (Note: this example is provided for mathematical purposes only.)

3.6.3. In approving any decision requiring the approval of Members, the Members may delegate to the Board of Directors or any officer of the Association the authority to determine and implement such details or matters as the Members determine.

Example: Assume that the Members approve obtaining a loan to the Association in a principal amount not to exceed $10,000 "on such terms and conditions as shall be approved by the Board of Directors." In such case, the Board of Directors shall have authority to determine such details as the term of the loan, the interest rate, the repayment schedule, the security for the loan, etc.

3.6.4. Cumulative voting is prohibited.

3.7. Quorum of Members.

Fifty-one percent (51%) of the cumulative Percentage Interests shall constitute a quorum for the transaction of business at any meeting or vote of the Members. A meeting may be conducted by any means that permits all Members participating to communicate simultaneously (such as a telephone conference call).

3.8. Proxies and Authority of Person Voting.

A Member may be represented by a written proxy that in the reasonable opinion of the President or Secretary of the Association evidences the intention of the Member to permit the holder of the proxy to vote on such Member's behalf. A proxy may be held by any Person, including, without limitation, any authorized representative of a Management Agent of the Association. The Board of Directors, or, in its absence, the President of the Association, shall

Westbury Record on Appeal 0344

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

have the authority to determine, in their sole reasonable discretion, whether any individual claiming to have authority to vote for a Member has such authority. If the Member is a corporation, partnership, limited liability company, trust, tenancy in common, joint tenancy, or similar entity or ownership arrangement, the Association may require the individual purporting to vote for such Member to provide reasonable evidence that such individual (the "Representative") has authority to vote for such Member. Unless the authority of the Representative is challenged in writing at or before the time of voting, or is challenged orally at the time of voting, however, the Association may accept such Representative as a person authorized to vote for such Member, regardless of whether adequate evidence of such authority is provided.

4. BOARD OF DIRECTORS

4.1. General Powers.

The Board of Directors of the Association (the "Board") shall manage the property, affairs, and business of the Association. The Board shall constitute that body referred to in the Horizontal Property Act of South Carolina as "the board of administration." The Board may exercise all of the powers of the Association, whether derived from law, the Master Deed, the Articles of Incorporation, or these Bylaws, except such powers as are expressly vested in another Person, including the Members as a whole, by such sources. Such powers shall include, without limitation, selection, hiring and dismissal of personnel or entities necessary for administering the affairs of the Association. Unless otherwise expressly set forth in law, the Master Deed, the Articles of Incorporation, or these Bylaws, the Board shall constitute the final administrative authority of the Association, and all decisions of the Board shall be binding upon the Association and the Members. Unless prohibited by applicable law, the Board may, in writing or by resolution of the Board, delegate to one or more officers or to a Management Agent or Agents, such of its duties, responsibilities, functions, and powers, as it determines are appropriate.

4.2. Number, Tenure, and Qualifications.

4.2.1 Until the election of a successor Board of Directors pursuant to Section 4.2.2, the Board of Directors shall consist of not less than three (3) nor more than five (5) individuals, as determined and designated by Declarant from time-to-time. A Controlling Interest shall exist as long as Declarant owns Units to which at least fifty-one percent (51%) of the cumulative Percentage Interests are allocable. Directors need not be Members.

4.2.2. Within one hundred eighty (180) days after the date on which the Declarant no longer has a Controlling Interest, or such earlier time as the Declarant records a document waiving its authority to designate the Board, or notifies the Members that it is waiving its authority to designate the Board as of a defined date, the successor Board shall be selected as follows:

A. The successor Board shall consist of five (5) individuals, each of whom shall serve for a three (3) year staggered term. Initially, however, in order to create a staggered Board, one (1) Director shall be elected for a one (1) year term, two (2) Directors shall be elected for a two (2) year term, and two (2) Directors shall be elected for a three (3) year term. The two (2) individuals receiving the highest number of votes shall be elected to a three (3) term, the two (2) individuals receiving the next highest number of votes shall be elected to a two (2) year term, and the individual receiving the next highest number of votes shall be elected to the one (1) year term.

B. Thereafter, upon the expiration of the designated term, each Director shall be elected for a three (3) year term. If a Director resigns or is replaced, the replacement Director shall serve for the balance of the applicable term. It is not necessary that a Director be a Member. An individual may serve as a Director for more than one (1) term, but no individual shall serve as a Director for a period in excess of six (6) consecutive years.

C. The current Board of Directors of the Association shall constitute a Nominating Committee to nominate competent and responsible individuals to serve as Directors of the Association. At the discretion of the Board of Directors, elections of Directors shall be held either (i) by written ballot distributed to the Owners of Units without a meeting or (ii) by

Westbury Record on Appeal 0345

written ballot at a meeting of the Member. In all cases, the Board of Directors shall determine the form of the written ballot, but the ballot shall contain one or more blank spaces for additional Persons to be nominated.

D. Notice of the election shall be given in accordance with Section 3.5. If election is by written ballot distributed to Member without a meeting, the ballot or accompanying materials shall state a date by which the ballot must be returned to the Association in order to be counted. The notice shall contain the names of those persons recommended by the Nominating Committee, but, if the vote will occur at a meeting, the notice shall state that Member may make other nominations at the meeting.

E. Each Member shall be authorized to cast as many votes as the number of Directors to be elected (i.e. if two Directors are being elected, then a Member may vote for two nominees). Votes shall be weighted to reflect the Percentage Interest allocable to each Unit. (See Section 3.6.1).

4.3. Annual and Regular Meetings.

The first meeting of the Board of Directors shall be held within one (1) year from the date of recording of the Master Deed. Unless otherwise determined by the Board of Directors, subsequent annual or regular meetings shall be held on such dates and at such location as the Board of Directors may determine.

4.4. Special Meetings.

Special meetings of the Board may be called by or at the request of the Chairman of the Board of Directors or any two (2) Directors (or if there are only two Directors, then any Director). The Director(s) calling a special meeting of the Board may fix any place within Beaufort County, South Carolina (or such other place as is approved by all Directors) as the place for holding such a meeting. Except as otherwise required or permitted by the South Carolina Nonprofit Corporation Act, notice of any special meetings shall be given at least two (2) days prior thereto. Notice shall be in accordance with the procedure set forth in Section 10. Any Director may waive notice of a meeting.

4.5. Quorum, Telephonic Meetings and Manner of Acting.

A majority of the number of Directors shall constitute a quorum for the transaction of business at any meeting of the Board. Upon approval of a majority of the Board, a meeting may be conducted by any electronic means that permits all participating Directors to communicate simultaneously (such as a telephone conference call). The act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board. The Directors shall act only as a Board and individual Directors shall have no powers as such.

4.6. Compensation.

No Director shall receive compensation for any services that he may render to the Association as a Director; provided, however, that Directors may be reimbursed for expenses incurred in performance of their duties as Directors and, except as otherwise provided in these Bylaws, may be compensated for services rendered to the Association other that in their capacities as Directors.

4.7. Resignation and Removal.

A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director may be removed at any time for or without cause, by proper action of the Person(s) having the right to designate or elect Directors at the time of removal (see Sections 4.2.1 and 4.2.2, above).

4.8. Vacancies.

If a vacancy shall occur in the Board by reason of the death or resignation of a Director, then such vacancy shall be filled by a vote of a majority of the remaining Directors. If a vacancy shall occur in the Board by reason of removal, then such vacancy shall be filled solely by vote of the Person(s) then having the right to designate or elect Directors (i.e. by the Declarant or the

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Members, as set forth in Sections 4.2.1 and 4.2.2, above). Any Director designated or appointed to fill a vacancy shall serve for the unexpired term of his predecessor.

4.9. Informal Action by Directors.

Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

4.10. Election of Chairman of Board.

The Chairman of the Board of Directors shall be elected by a majority of the Board at any meeting. The Chairman shall serve until the earlier of (a) such time as a new Chairman shall be elected, (b) his resignation as Chairman, (c) his resignation or removal as a Director, or (d) his death. The Board of Directors may elect a Vice Chairman to serve in the absence of the Chairman. If a Vice Chairman is elected, he shall also be a Vice President of the Association.

5. OFFICERS

5.1. Number.

The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers as the Board may from time to time elect.

5.2. Election, Tenure, and Qualifications.

The officers of the Association shall normally be elected by the Board at the annual meeting of the Board. In the event of failure to choose officers at such annual meeting of the Board, officers may be chosen at any subsequent regular or special meeting of the Board. Each officer (whether chosen at a regular annual meeting of the Board or otherwise) shall hold his office until his successor shall have been chosen and qualified, or until his death, or until his resignation or removal in the manner provided in these Bylaws, whichever first occurs. Any one individual may hold any two or more of such offices. No individual holding two or more offices shall act in or execute any instrument in the capacity of more than one office. It is not necessary that an officer be a Director or a Member.

5.3. Subordinate Officers and Agents.

The Board may from time to time appoint such other officers or agents as it deems advisable, each of whom shall have such title, hold office for such periods, have such authority, and perform such duties as the Board may from time to time determine. The Board may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. It is not necessary that a subordinate officer or agent be a Director or an Owner.

5.4. Resignation and Removal.

Any officer may resign at any time by delivering a written resignation to the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board at any time, for or without cause.

5.5. Vacancies and Newly Created Offices.

If any vacancies shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board at any regular or special meeting.

5.6. The President.

The Chairman of the Board of Directors shall serve as the President of the Association. The President shall preside at meetings of the Board and at meetings of Members of the Association. He shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things that the Board may require of him; provided that the Board may authorize other officers or Persons to act on specific matters by proper resolution of the Board.

Westbury Record on Appeal 0347

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

5.7. The Vice President.

The Vice President shall preside in the absence of the President and shall do and perform all other acts and things that the Board may require of him. The Board may elect more than one Vice President. (Also see Section 4.10.)

5.8. The Secretary.

The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Master Deed, any resolution of the Board or applicable law may require him to keep. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board may require of him.

5.9. The Treasurer.

The Treasurer shall have custody and control of the funds of the Association, subject to the action of the Board, which may include authorization for other entities, such as a Management Agent, to handle day-to-day matters under the general direction of the Treasurer or the Board. When requested by the President or the Board to do so, the Treasurer shall report the state of the finances of the Association. He shall perform such other duties as the Board may require of him.

5.10. Compensation.

No officer shall receive compensation for any services that he may render to the Association as an officer; provided further, however, that officers may be reimbursed for expenses incurred in performance of their duties as officers and, except as otherwise provided in these Bylaws, may be additionally compensated for services rendered to the Association other than in their capacities as officers.

6. COMMITTEES

6.1. Designation of Committees.

The Board may from time-to-time appoint such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee appointed hereunder shall consist of such number as the Board shall determine. No committee member shall receive compensation for services that he may render to the Association as a committee member; provided, however, that committee members may be reimbursed for expenses incurred in performance of their duties as committee members and (except as otherwise provided by these Bylaws) may be compensated for services rendered to the Association other than in their capacities as committee members. It is not necessary that a committee member be a Director, an officer or a Member of the Association.

6.2. Proceedings of Committees.

Unless appointed by the Board, each committee appointed hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep adequate records of its proceedings and shall regularly report such proceedings to the Board. Unless expressly delegated to the committee by the Board, the power and authority of each committee shall only be to make recommendations to the Board, which shall have the final decision whether to take any action or not.

6.3. Quorum and Manner of Acting.

At each meeting of any committee designated hereunder by the Board, the presence of committee members constituting at least a majority of the authorized membership of such committee shall constitute a quorum for the transaction of business, and the act of a majority of the committee members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board hereunder shall act only as a committee, and the individual committee members thereof shall have no powers as such.

Westbury Record on Appeal 0348

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

6.4. Resignation and Removal.

Any committee member designated hereunder by the Board may resign at any time by delivering a written resignation either to the President, the Board, of the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, for or without cause, remove any member of any committee designated by it hereunder.

6.5. Vacancies.

If a vacancy shall occur in any committee designated by the Board hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining committee members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any Board meeting.

7. INDEMNIFICATION

7.1. Indemnification.

Unless expressly prohibited by applicable law, the Association shall indemnify any Person who was or is a party to, or is threatened to be made a party to, any threatened, pending, or completed action, suit, or proceeding (including a proceeding brought by the Association) whether civil, criminal, administrative, or investigative (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 Management Agent of the Association, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement in connection with such action, suit, or proceeding, if the indemnified Person (a) acted in good faith, without fraudulent intent or gross negligence (or, if the action is brought by the Association, without negligence or breach of any contractual or fiduciary obligation to the Association), and in a manner the Person reasonably believed to be in or not opposed to the best interest of the Association, and (b) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, or settlement, or 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.

7.2. Determination.

If a Director, officer, employee, or Management Agent of the Association is successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 7.1, or in defense of any claim, issue, or matter therein, he or it shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Section 7.1 hereof shall be made by the Association only upon a determination that indemnification of the Director, officer, employee, or Management Agent is proper in the circumstances because he or it has met the applicable standard of conduct set forth respectively in Section 7.1 hereof. Such determination shall be made by the Board by a majority vote of Directors (excluding any Director whose indemnification is being considered).

7.3. Advances.

Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a Directors (excluding any Director whose indemnification is being considered) and upon receipt of an undertaking by or on behalf of the Director, officer, employee, or Management Agent to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article.

7.4. Scope of Indemnification.

The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Master Deed, Articles of Incorporation, Bylaws, agreements, vote of disinterested Members of Directors, or

Westbury Record on Appeal 0349

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

applicable law. The indemnification authorized hereby shall apply to all present and future Directors, officers, employees, and Management Agents of the Association and shall continue as to such Persons who cease to be Directors, officers, employees, or Management Agents of the Association and shall inure to the benefit of the heirs and legal representatives of all such Persons.

7.5. Insurance.

The Association may purchase and maintain insurance on behalf of any Person who was or is a Director, officer, employee, or agent of the Association against any liability asserted against him or 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 Bylaws or the laws of the State of South Carolina, as the same may hereafter be amended or modified.

7.6. Payments and Premiums.

All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute Common Expenses of the Association and shall be paid with funds of the Association.

8. FISCAL YEAR AND SEAL

8.1. Fiscal Year.

The fiscal year of the Association shall begin on the 1st day of January each year and shall end on the 31st day of December next following, except that the first fiscal year shall begin on the date of incorporation.

8.2. Seal.

The Board may by resolution provide a corporate seal that shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, and the words "Seal" or "Corporate Seal."

9. RULES AND REGULATIONS

9.1. Rules and Regulations.

The Board may from time to time adopt, amend, repeal, and enforce reasonable Rules and Regulations governing the use and operation of the Property, to the extent that such Rules and Regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Master Deed, or law. Without limitation, such Rules and Regulations may include establishment of reasonable fees for guests or for special use of facilities in the Common Element, definition of the times and conditions of use of facilities in the Common Element, and reasonable charges for failure to observe the terms of this Master Deed or the Rules and Regulations. Upon request of any Owner, such Owner shall be provided a copy of the Rules and Regulations or the Master Deed, provided that the Board may charge a reasonable fee to cover any reproduction, mailing or administrative costs involved.

10. NOTICES

10.1. Notices.

Whenever notice is required or permitted under the terms of these Bylaws, it shall be in writing and (a) personally delivered or (b) sent postage or delivery charges prepaid either (i) by United States mail, certified, return receipt requested, in which case notice shall be deemed to occur on the certified date of delivery or rejection of delivery or (ii) if within the United States, by First Class or Priority United States mail, in which case notice shall be deemed to occur four (4) calendar days after date of postmark, or (iii) by any dependable delivery service that provides evidence of delivery, in which case notice shall be deemed to occur on the certified date of delivery. Notices by other methods, such as facsimile or e-mail transmission, shall be valid if the recipient thereof acknowledges receipt in writing or electronic confirmation of receipt is received by the sender.

10.2. Addresses.

All notices to Owners shall be delivered or sent to such address as has been provided from time to time by the Owner, in writing, to the Association, or if no address has been so provided to

Westbury Record on Appeal 0350

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

the Association or no current address is known, then at the address of such Owner's respective Unit or the address then shown as that of the Owner on the property tax records of Beaufort County, South Carolina, or to any other address that would constitute a valid address for service of process.

All notices to Declarant shall be delivered in care of:

Montecito Westbury, LLC
c/o Montecito Property Company, LLC
7785 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7561

or to such other address as has been provided, in writing, from time to time, by the Declarant to the Association.

All notices to the Association shall be delivered

Estate at Westbury Owners Association, Inc.
c/o Management Agent
2011 Highway 17 North
Mt. Pleasant, SC 29466

or to such other address as has been provided, in writing, from time to time, by the Association.

All notices to mortgagees shall be delivered or sent to such address as has been provided, in writing, from time to time, to the Association pursuant to Section 10.5 of the Master Deed, or to any other address that would constitute a valid address for service of process.

11. OTHER STATUTORY PROVISIONS

In compliance with Section 27-31-160 of the South Carolina Horizontal Property Act, the provisions governing the care, upkeep and surveillance of the property of the Association and its general or limited common elements and services; the manner of collecting from Owners for payment of common expenses of the Association; the hiring and dismissal of the personnel necessary for the works, and the general or limited common services for the property of the Association; and the procedure for modifying the system of administration of the Association created by the Master Deed, are set forth in the Master Deed of the Association. By reference, such provisions are incorporated herein.

12. AMENDMENT OF BYLAWS

12.1. Amendment by Association.

The Bylaws may be amended by either (a) approval of the proposed amendment by at least fifty-one percent (51%) of the Percentage Interests, or (b) approval of the proposed amendment by vote of two thirds of the then-existing Board of Directors. If approval is sought in the manner set forth in (a), then notice of the proposed amendment shall be given to the Members in writing by a Member or Director proposing the amendment and the notice shall contain a general description of the proposed amendment and the purpose of the proposed amendment. If approval is sought in the manner set forth in (b), then notice of the proposed amendment shall be given to the Board in writing by a Director proposing the amendment and the notice shall contain a general description of the proposed amendment and the purpose of the proposed amendment. No amendment to the Bylaws that imposes or reasonably could be construed to impose a greater economic or legal burden on Declarant than exists under the then current provisions of these Bylaws shall be valid unless it is approved, in writing, by Declarant, and no amendment of the Bylaws that is contrary to this statement shall be valid.

12.2. Amendment by Declarant.

The Declarant may amend the Bylaws without the consent of the Association, any Owner or any mortgagee if, in Declarant's reasonable opinion, such amendment is not inconsistent with applicable law and is necessary to (i) correct any scriveners error or bring any provision of the Bylaws into compliance or conformity with the provisions of the Master Deed or any applicable governmental statute, rule or regulation or any judicial determination that is in conflict with the

Bylaws; (ii) enable any title insurance company to issue title insurance coverage with respect to any Units subject to the Master Deed; (iii) enable any mortgagee to make mortgage loans on any Unit or other improvements subject to the Master Deed; (iv) enable any governmental agency or private mortgage insurance company to insure mortgages on the Units subject to the Master Deed; (v) enable any insurer to provide insurance required by the Master Deed; (vi) clarify any provision of the Bylaws or the Master Deed or eliminate any conflict between provisions of the Bylaws and/or the Master Deed; or (vii) comply with advice of legal counsel.

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury Record on Appeal 0352

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "C": PLOT PLAN, UNIT PLANS, FLOOR PLANS, ELEVATIONS, UNIT SIZES AND DESIGNATIONS; GARAGE UNIT DESIGNATIONS

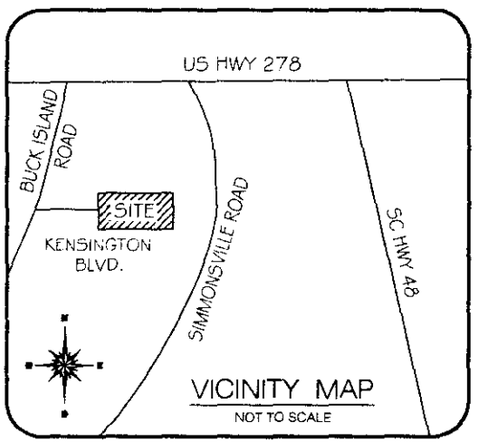
Westbury Record on Appeal 0353

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

BARRETT
SURVEYING GROUP
TELE: 864-834-3732
FAX: 864-834-3079
Email: barrettgroup@belisouth.net
223-A Poinsett Highway
Travelers Rest, SC 29690



VICINITY MAP
NOT TO SCALE

INDEX OF DRAWINGS

DRAWING	SHEET NO.
EXHIBIT "A"	
CERTIFICATION/VICINITY MAP	1
LAND DESCRIPTION	2
NOTES AND LEGEND	3
NOTE CORRESPONDING TO SCHEDULE B	4
BOUNDARY IMPROVEMENT KEY MAP	5
BOUNDARY AND IMPROVEMENT SURVEY	6-19
BUILDING LOCATION KEY MAP	20-22
BUILDING UNIT LOCATION	23-40
TYPICAL UNIT DETAIL	41-46
BUILDING ELEVATIONS	47-56

CERTIFICATION

I hereby state that to the best of my knowlwdge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a class "B" survey as specified therein; also there are no visible encroachments or projections other than shown.

SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR NO. 23203 R. SCOTT BARRETT

SOUTH CAROLINA BARRETT SURVEYING GROUP C02842 CERTIFICATE OF AUTHORIZATION

1-18-06

R. Scott Barrett, PLS — Date
SC Registration No. 23203

USSURVEY@USSURVEYOR.COM
U.SURVEYOR®
4859 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME: CERTIFICATION VICINITY MAP

SCALE: Scale 1" = 100'
100 50 0 100

JOB NUMBER: SS 36511

SHEET 1 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

LAND DESCRIPTION

PARCEL I:
All that certain piece, parcel or tract of land lying and being in Bluffton Township, Beaufort County, South Carolina, containing 20.00 acres, more or less, shown and described on that certain plat entitled "ALTA/ACSM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998, and revised October 28, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 67, page 118, further and last revised January 26, 1999, and recorded February 23, 1999 in Plat Book 69, page 23, ("Plat") ("Property"), which Property is more particularly described as follows:

Commencing at the intersection of the centerline of Buck Island Road right of way and the centerline of Kensington Boulevard right of way, said point having S.C. grid coordinates of N160,697.1278, E2,038,367.5012: thence, along the centerline of Kensington Boulevard, S 50°52'48" E a distance of 283.27' to a point; thence S 46°01'21" E, a distance 1,737.73' to a point; said point having S.C. grid coordinates of N159,311.7609, E2,039,837.7662; said point also being the point of beginning; thence along the eastern boundary of Simpsonville Canal N 08°09'05" E, a distance of 18.39'; thence N 13° 04'21" W, a distance of 27.74; thence N 13°04'21" W, a distance of 2.26'; thence N 03°13'51" E, a distance 31.36; thence N 73°53'24" E, a distance of 25.49'; thence N 49°20'23" E, a distance of 34.93'; thence N 40°36'28" E, a distance of 32.81'; thence N 10°42'37" E, a distance of 18.09' to an iron rebar set; thence along the southern right of way of a 150' power line easement S 46°06'08" E, a distance of 1,706.16' to a concrete monument found; thence along the western property line of N/F Bluffton House Apartments S 43°53'52" W, a distance of 525.65' to an iron rebar set; thence N 46°05'35" W, a distance of 1,643.33' to an iron rebar set; thence along the aforementioned canal, N 59°24'50" E, a distance of 33.92'; thence N 48°18'43" E, a distance of 47.52'; thence N 39°50'27" E, a distance of 50.00'; thence N 36°06;34" E, a distance of 46.10'; thence N 42°56'05" E, a distance of 37.05'; thence N 19°08'43" E, a distance of 48.10'; thence N 51°49'01" E, a distance of 33.73'; thence N 65°05'22" E, a distance of 49.10'; thence N 65°05'22" E, a distance of 6.08'; thence N 08°09'05" E, a distance of 30.00; to a point; said point being the true point of beginning.

PARCEL II-Non-Exclusive Access and Utility Easement-Residential Area:
Permanent, non-exclusive right for (a) vehicular and pedestrian access over and across the roads shown on that certain plat entitled "ALTA/ACSM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998, and revised October 28, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 67, page 118, further and last revised January 26, 1999, and recorded February 23, 1999 in Plat Book 69, page 23 as "Kensington Blvd." and that portion of "Westbury Park Way" within block X-1 by Westbury Park Apartments, Ltd., an Alabama limited partnership doing business in South Carolina as Westbury Park Apartments, Limited Partnership ("Westbury"), its successors and assigns, and Westbury's tenants, all guests and invitees of such tenants/owners, all employees, contractors, suppliers, vendors and other representatives of Westbury and all other persons who reasonably need, on Westbury's behalf, access to Property, and (b) a five (5') foot Utility Easement measured from the centerline of buried utility cables and lines, on each side of said buried utility cables and lines within the right of way of Kensington Boulevard for the purpose of installing, maintaining, repairing, replacing and/or relocating when necessary any utility lines providing utilities to the Property. All the above as established in Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park dated November 10, 1998 and recorded in Deed Book 1106 at page 1225.

PARCEL III- Non-Exclusive Access Easement-Commercial Area:
Permanent, non-exclusive right for vehicular and pedestrian access over and across the portion of "Westbury Park Way" north of Block X-1, as shown on that certain plat entitled "ALTA/ACSM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998, and revised October 28, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 67, page 118, further and last revised January 26, 1999, and recorded February 23, 1999 in Plat Book 69, page 23, by Westbury, its successors and assigns, and Westbury's tenants, all guests and invitees of such tenants/owners, all employees, contractors, suppliers, vendors and other representatives of Westbury and all other persons who reasonably need, on Westbury's behalf, access to the Property. All the above as established in Reciprocal Easement Agreement dated December 31, 1996 and recorded January 2, 1997 in Deed Book 912., page 11, and in Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park dated November 10, 1998 and recorded in Deed Book 1106 at page 1225.

PARCEL IV-Signage Easements:
Permanent, non-exclusive easement for Westbury's directional signs at the approximate locations shown as follows on that certain plat entitled "ALTA/ACSM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998, and revised October 28, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 67, page 118, further and last revised January 26, 1999, and recorded February 23, 1999 in Plat Book 69, page 23:
1. At the intersection of the east right of way of Buck Island Road and Kensington Boulevard;
2. At the southwest corner of the intersection of Kensington Boulevard and Westbury Park Way; and
3. At the northwest corner of the intersection of Arley Way and Westbury Park Way.
All the above as established in Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park dated November 10, 1998 and recorded in Deed Book 1106 at page 1225.

PARCEL V- Drainage Easement
Permanent, non-exclusive Twenty-Five Foot (25') Storm Drainage Easement as more fully shown on that certain plat entitled "ALTA/ACSM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998, and revised October 28, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 67, page 118, further and last revised January 26, 1999, and recorded February 23, 1999 in Plat Book 69, page 23. All the above as established in Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park dated November 10, 1998 and recorded in Deed Book 1106 at page 1225.

Derivation for Parcel I: This being the identical property heretofore conveyed to Westbury Park Apartments, Ltd., an Alabama limited partnership, dated November 10, 1998, recorded November 12, 1998, in Deed Book 1106, page 1245.

TMS # R600 031 000 0266 0000

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4959 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME: LAND DESCRIPTION

SCALE: Scale 1" = 100'
100 50 0 100

JOB NUMBER: SS 36511

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

NOTES

1) WRITTEN DIMENSIONS HAVE PRECEDENCE OVER SCALED DIMENSIONS.

2) ALL AREAS NOT INCLUDED IN BOUNDARIES OF UNITS OR LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS.

3) FOR ALL OTHER PERTINENT INFORMATION, REFER TO THE MASTER DEED OF WHICH THIS IS A PART.

4) © COPYRIGHT 2005 US SURVEYOR. THE SKETCH OF SURVEY AND SURVEY REPORT COMPRISE THE COMPLETE SURVEY. THIS SURVEY IS NOT VALID UNLESS THE SKETCH AND REPORT ACCOMPANY EACH OTHER. REPRODUCTIONS OF THIS SURVEY ARE NOT VALID WITHOUT THE ORIGINAL RAISED SEAL OF A STATE SURVEYOR EMPLOYED BY U.S. SURVEYOR.

LEGEND

BL	Building line
CL	Centerline
CMP	Corrugated metal pipe
CT	Crimp top
DE	Drainage easement
EP	Edge of pavement
IPO	Iron pin old
IPS	Iron pin set
N&C	Nail & cap
OT	Open top
RB	Rebar
RCP	Reinforced Conc Pipe
R/W	Right of Way
SD	Storm Drain
SS	Sanitary Sewer
SSE	Sanitary Sewer Easement

VCP	Vitrified clay pipe
EM	Electric meter
CB	Catch basin
CI	Curb inlet
DI	Drop inlet
	Elec trans
	Fire hydrant
	Gas meter
GV	Gas valve
IP	Iron pin
LP	Light pole
MHBS	Manhole (bellsouth)
MHSD	Manhole (sd)
MHSS	Manhole (ss)
MHT	Manhole telephone
CO	Clean out

PP	Power pole
TEL	Telephone pedestal
WM	Water meter
WV	Water valve
CTV	Cable tv
X	Chain link fence
FOC	Fiber optic cable
GAS	Gas line
OHP	Overhead power
OHT	Overhead telephone
OU	Overhead utilities
SD	Storm drain
SS	Sanitary sewer
UGP	Underground power
UGT	Underground tel
W	Water line

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4989 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME: NOTES & LEGEND

SCALE: Scale 1" = 100'
100 50 0 100

JOB NUMBER: SS 36511

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

NOTES CORRESPONDING TO SCHEDULE B

C1 Reciprocal Easement Agreement between Hampton Land Company, LLC, Coligny Plaza Limited Partnership, and Plantation Properties, LLC recorded in the Beaufort County Register of Deeds Office on January 2, 1997 in Book 912 at Page 11. Does affect the subject property. Access easement plotted.

C2 Easement from Westbury Park Apartments, Ltd. to Palmetto Electric Cooperative, recorded in the Beaufort County Register of Deeds Office on June 16, 1999 at Book 1183 at Page 504. Does affect the subject property. Blanket easement. Nothing to plot.

C3 Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park recorded in the Beaufort County Register of Deeds Office on November 12, 1998 in Book 1106 at Page 1225. Matters that affect are plotted.

C4 Declaration of Restrictive Covenants by Plantation Properties, LLC and Westbury Park Apartments, Ltd. recorded in the Beaufort County Register of Deeds Office on February 18, 1999 in Book 1138 at Page 1333. Wetland buffer does affect the property. Plotted.

C5 Amendment of Declaration of Restrictive Covenants by Plantation Properties, LLC in Westbury Park Apartments, Ltd. recorded in the Beaufort County Register of Deeds Office on February 26, 1999 in Book 1141 at Page 1326. Document not provided. Cannot address.

C6 County Building Setback, Wetlands, Wetland Buffers, Sewer, Telephone, CATV, and other utility infrastructure, Relocatable Storm Drain Easement, Right of Way shown as "Kensington BAVD" and all other matters depicted on that plat entitled "ALTA/ACSM Land Title Survey of 20.00 Acre Parcel, Westbury park, Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell S.C.R.L.S. #11059 Surveying Consultants, dated October 7, 1998, and revised October 28, 1998 and recorded in the Beaufort County Register of Deeds Office on February 23, 1999 in Plat Book 69 at Page 23. Does affect the subject property. Plotted.

C7 Easement in favor of South Carolina Electric & Gas Company recorded in the Beaufort County Register of Deeds Office in 1976 in Book 235 at Page 42. Does affect the subject property. Blanket easement. Nothing to plot.

C8 Easement in favor of Palmetto Electric Cooperative, Inc. recorded in the Beaufort County Register of Deeds Office on November 30, 1989 in Book 541 at Page 1427. Does not appear to affect the property. Easement appears to be located beyond the boundary limits of the subject property. Document does not provide adequate information to make an accurate plotting.

C9 Easement in favor of Central Electric Power Cooperative, Inc. recorded in the Beaufort County Register of Deeds Office on August 18, 1969 in Book 66 at Page 183. Does not affect the property from a burdening standpoint. Plotted.

C10 Right of Way Agreement in favor of Palmetto Electric Cooperative recorded in the Beaufort County Register of Deeds Office in Book 106 at Page 40. Does not affect the property from a burdening standpoint. Plotted.

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4029 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME: SCHEDULE B NOTES

SCALE: Scale 1" = 100'
100 50 0 100

JOB NUMBER: SS 36511

SHEET 4 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

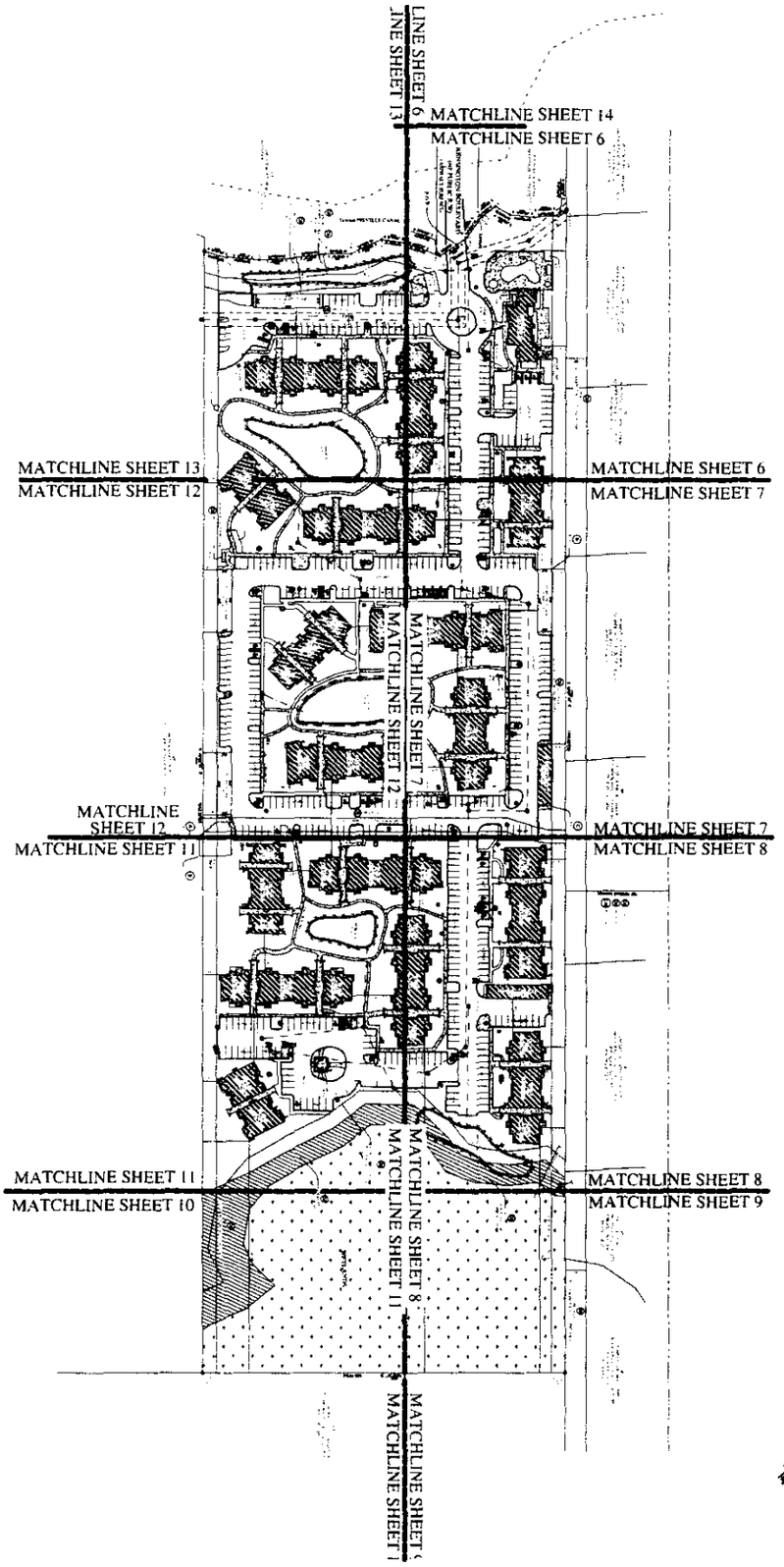


EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

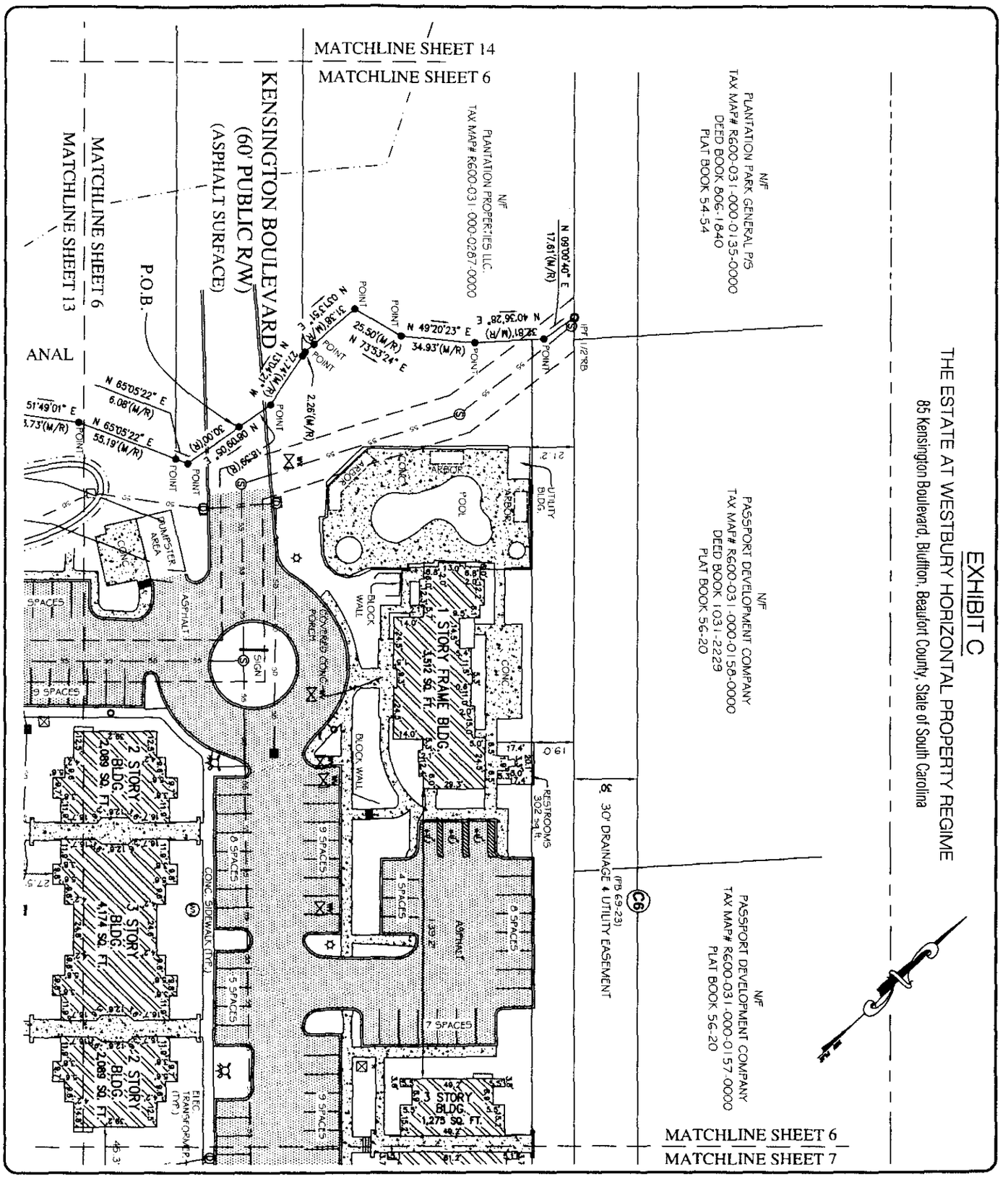
USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4220 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME: BOUNDARY & IMPROVEMENT KEY MAP

SCALE: Scale 1" = 250'
250' 125' 0 250'

JOB NUMBER: SS 36511

SHEET 5 OF 56



USSURVEY@USSURVEYOR.COM

U.S. SURVEYOR®

1899 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715

1-800-TO SURVEY

SHEET NAME:

BOUNDARY & IMPROVEMENT SURVEY

SCALE: Scale 1" = 60'

60' 30' 0 60'

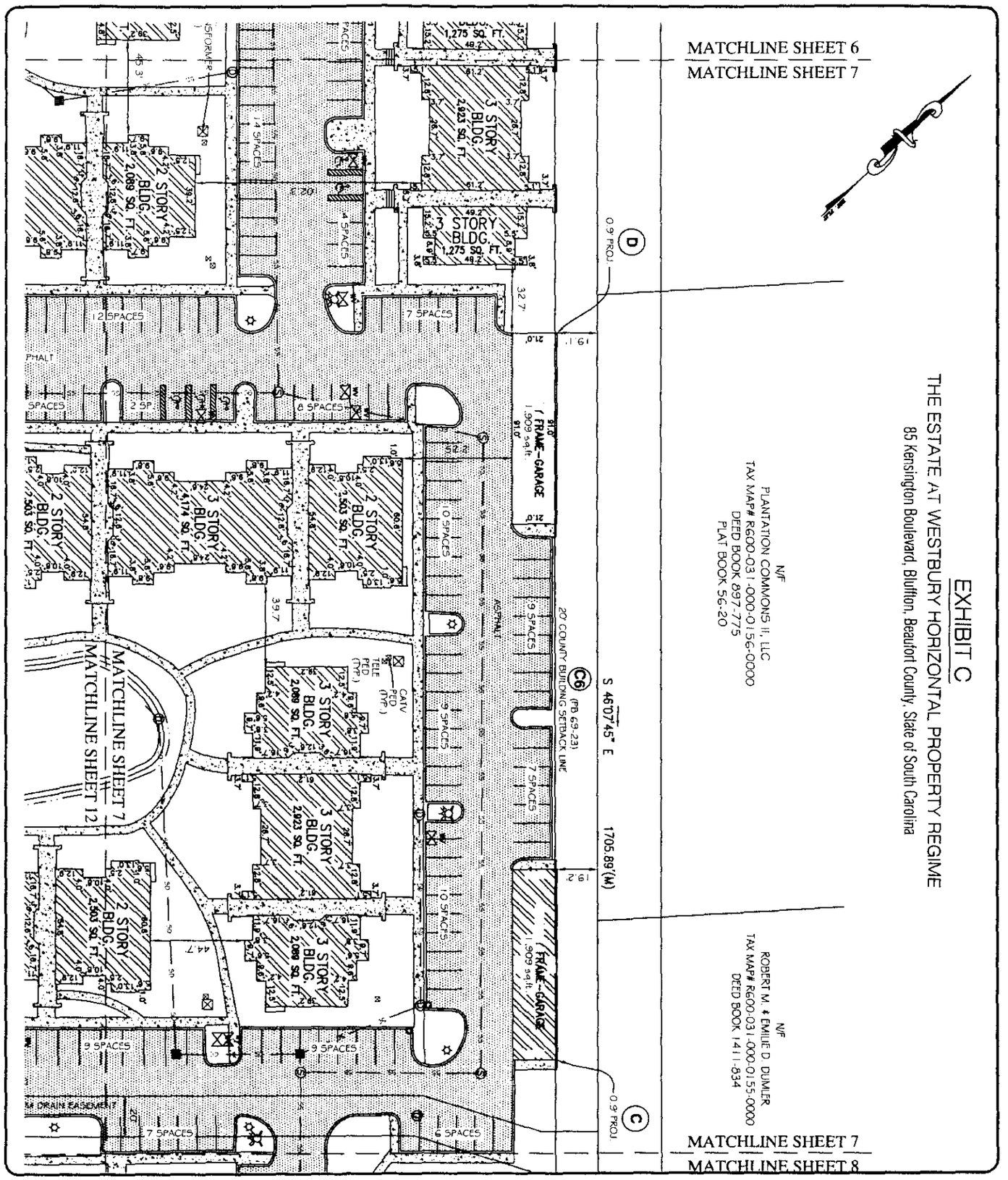
JOB NUMBER: SS 36511

SHEET 6 OF 56

Westbury Record on Appeal 0359

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Book2310/Page2058



USSURVEY@USSURVEYOR.COM

U.S. SURVEYOR®

4089 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715

1-800-TO SURVEY

SHEET NAME:

BOUNDARY & IMPROVEMENT SURVEY

SCALE: Scale 1" = 60'

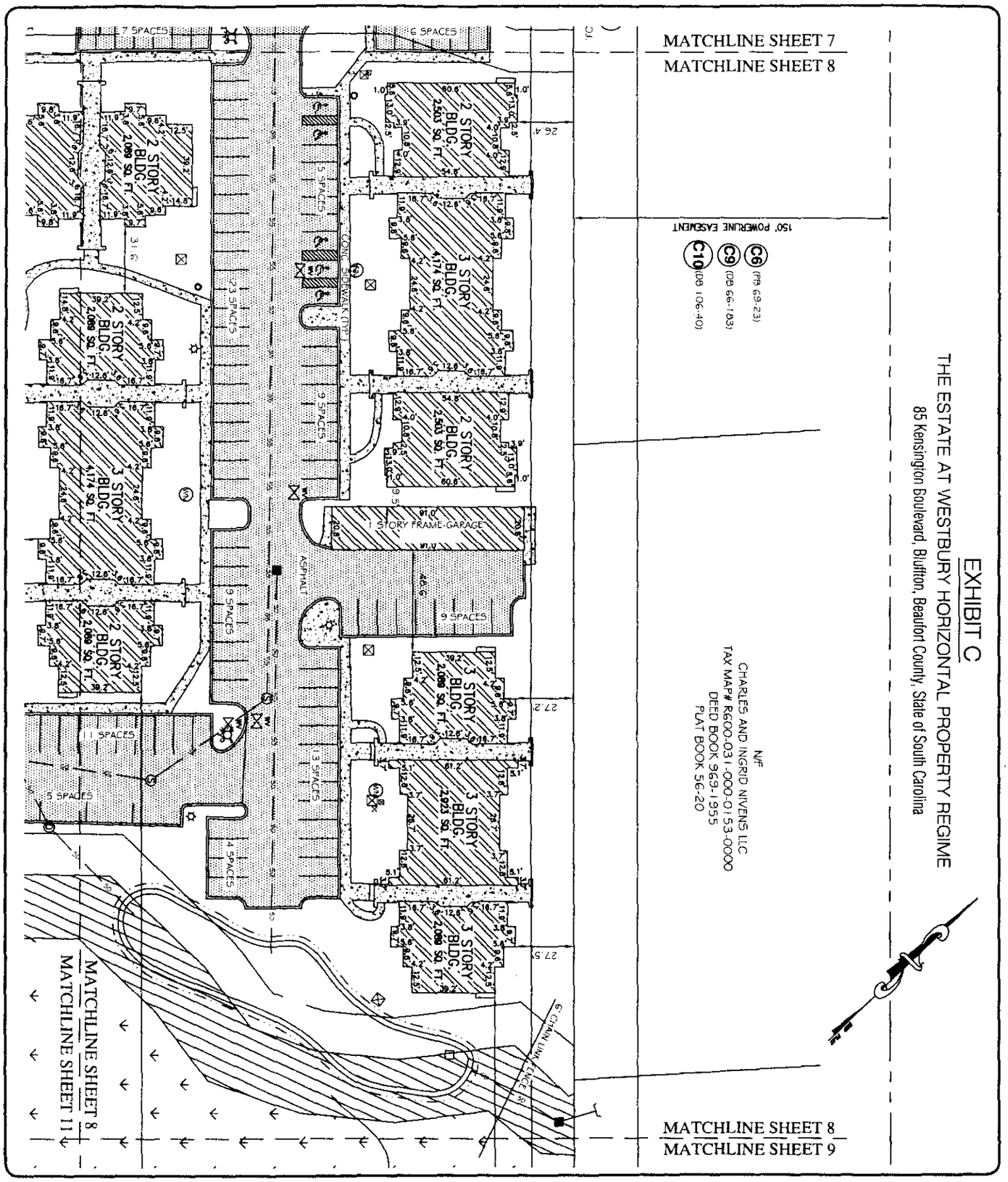
60' 30' 0 60'

JOB NUMBER: SS 36511

SHEET 7 OF 56

Westbury Record on Appeal 0360

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



USSURVEY@USSURVEYOR.COM

U.S. SURVEYOR®

4889 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715

1-800-TO SURVEY

SHEET NAME:

BOUNDARY & IMPROVEMENT SURVEY

SCALE: Scale 1" = 60'

60' 30' 0 60'

JOB NUMBER: SS 36511

SHEET 8 OF 56

Westbury Record on Appeal 0361

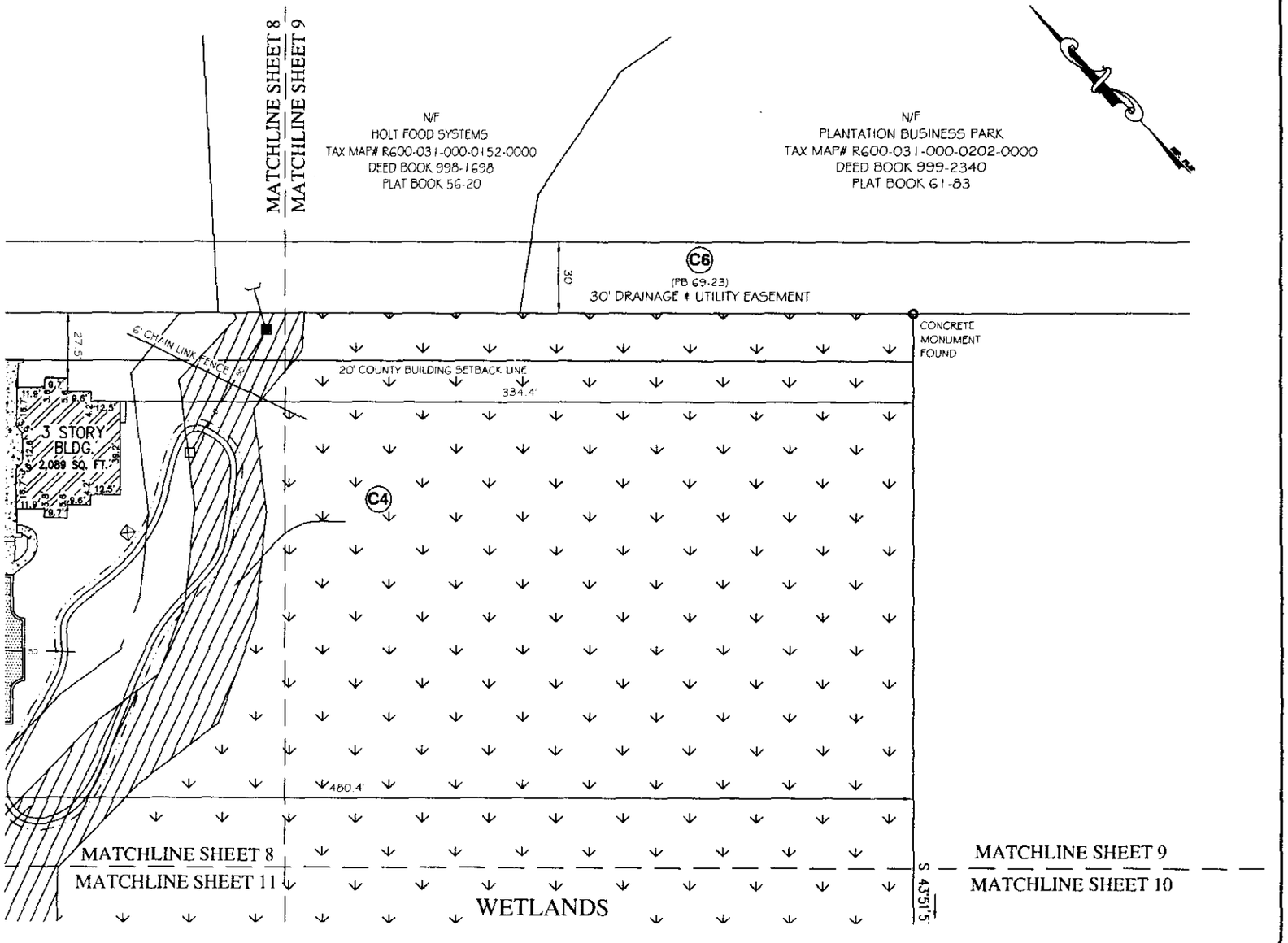
ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Book2310/Page2060

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina



SCALE: Scale 1" = 60' (60' 30' 0 60')

JOB NUMBER: SS 36511

SHEET 9 OF 56

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

U.S. SURVEYOR
USSURVEYOR.COM
1-800-TO SURVEY
4885 RIVERSIDE POINTE DRIVE
EVANSVILLE, INDIANA 47715

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Book2310/Page2061

Westbury Record on Appeal 0362

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

SCALE: Scale 1" = 60' (60' 30' 0 60')

JOB NUMBER: SS 36511

SHEET 10 OF 56

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4490 RIVERBEND POINTE DRIVE
EVANSVILLE, INDIANA 47725
1-800- TO SURVEY

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Book2310/Page2062

Westbury Record on Appeal 0363

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

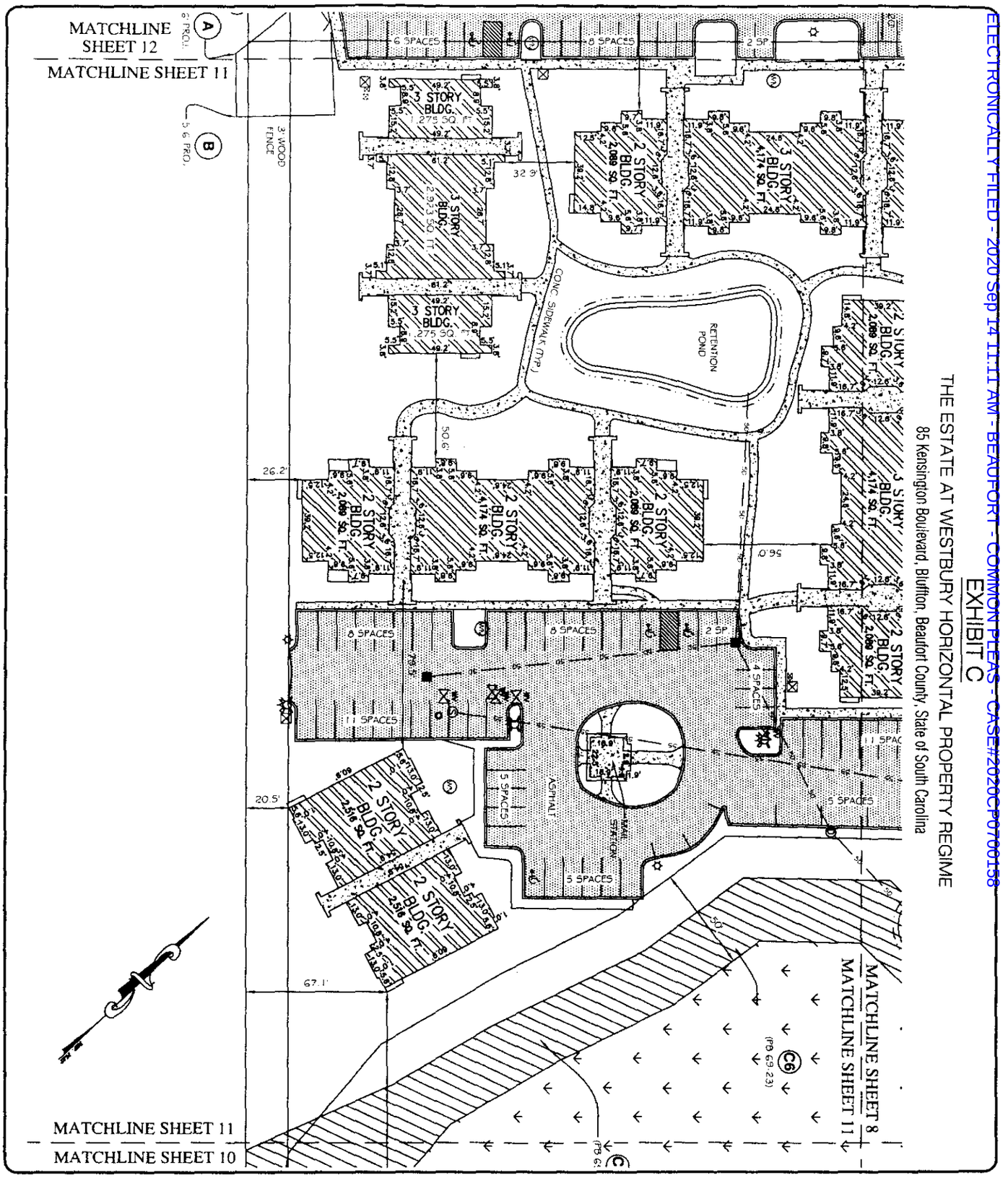


EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

USSURVEY@USSURVEYOR.COM

U.S. SURVEYOR®

4889 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715

1-800-TO SURVEY

SHEET NAME:

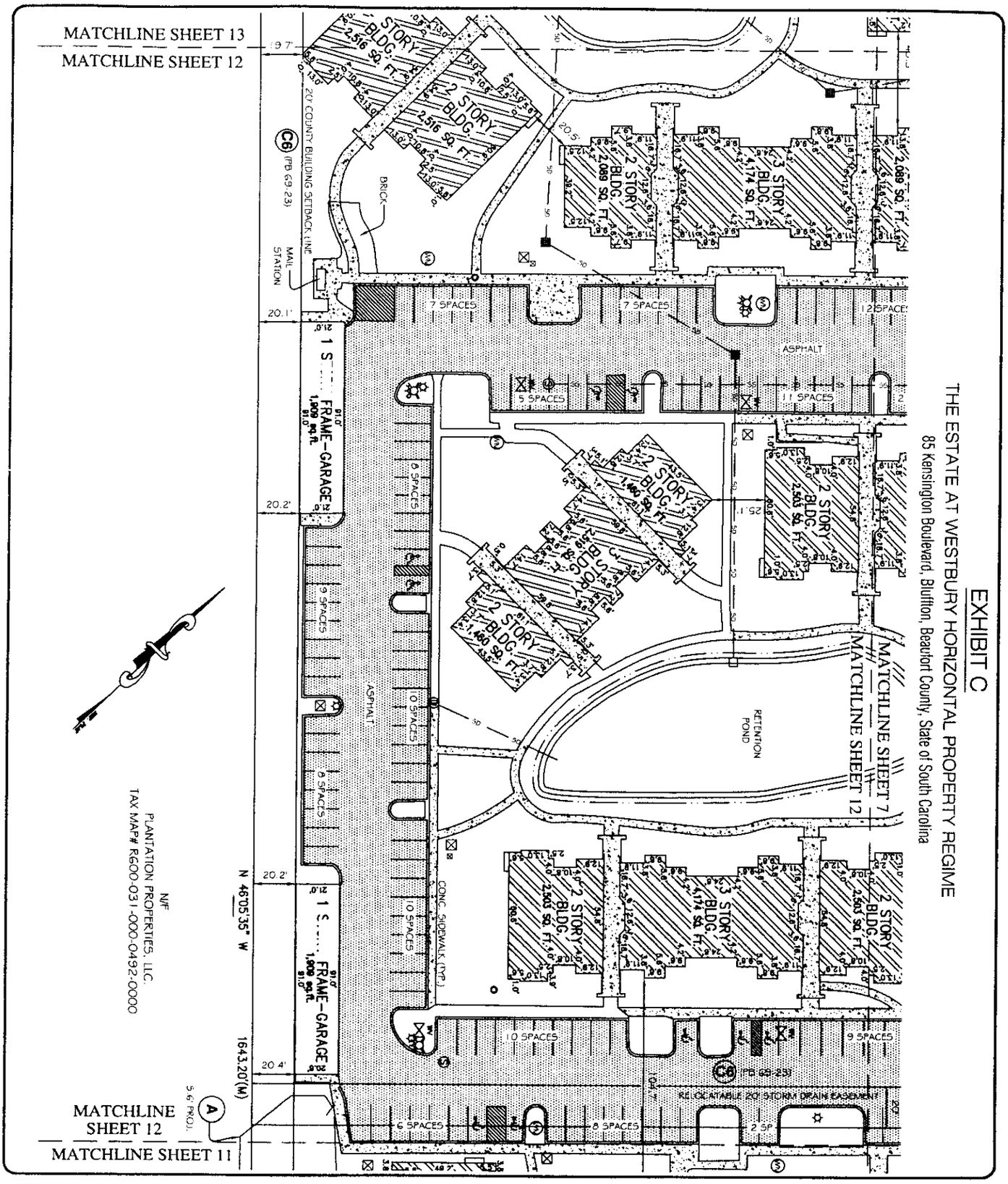
BOUNDARY & IMPROVEMENT SURVEY

SCALE: Scale 1" = 60'

60' 30' 0 60'

JOB NUMBER: SS 36511

SHEET 11 OF 56



USSURVEY@USSURVEYOR.COM

U.S. SURVEYOR®

4020 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715

1-800-TO SURVEY

SHEET NAME:

BOUNDARY & IMPROVEMENT SURVEY

SCALE: Scale 1" = 60'

60' 30' 0 60'

JOB NUMBER: SS 36511

SHEET 12 OF 56

Westbury Record on Appeal 0365

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

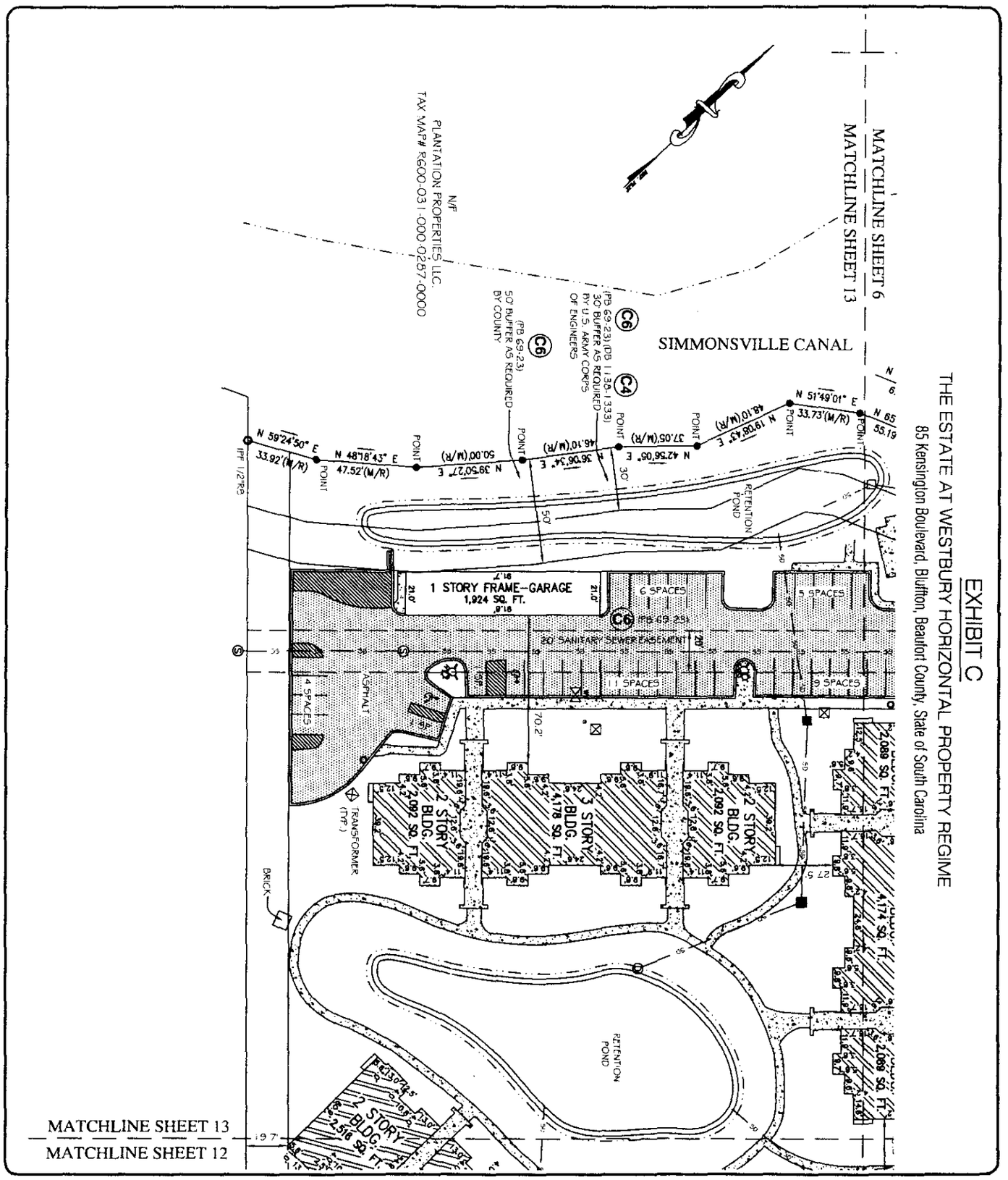


EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

USSURVEY@USSURVEYOR.COM

U.S. SURVEYOR®

4829 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715

1-800-TO SURVEY

SHEET NAME:

BOUNDARY & IMPROVEMENT SURVEY

SCALE: Scale 1" = 60'

60' 30' 0 60'

JOB NUMBER: SS 36511

SHEET 13 OF 56

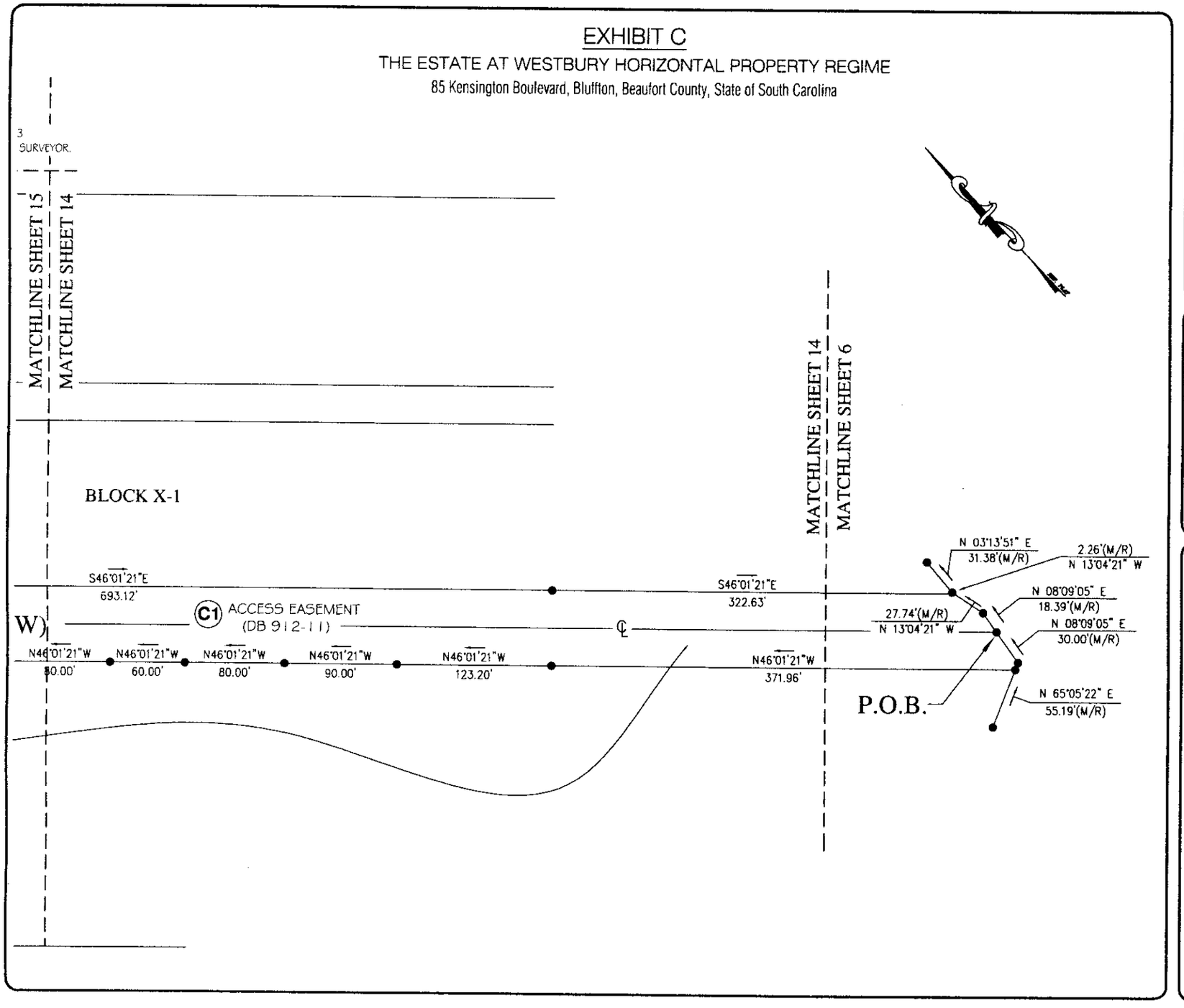
Westbury Record on Appeal 0366

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina



SCALE: Scale 1" = 100'

JOB NUMBER: SS 38511

SHEET 14 OF 56

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

USSURVEYOR® USSURVEYOR.COM
1880 RIVERMIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Book2310/Page2066

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

SCALE: Scale 1" = 100' (100' 50' 0 100')

JOB NUMBER: SS 36511

SHEET 15 OF 56

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

U.S. SURVEYOR®
USSURVEYOR.COM
1-800-TO SURVEY
1550 RIVERBEND POINTE DRIVE
EVANSVILLE, INDIANA 47715

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

C6 (PB 69-23)

NOTES:
1. ARLEY WAY AND WESTBURY PARK WAY ARE PRIVATE ROADS AND WILL BE MAINTAINED BY WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS ASSOCIATION, INC.
2. KENSINGTON BOULEVARD IS A PRIVATE ROAD AND WILL BE MAINTAINED BY WESTBURY PARK RESIDENTIAL OWNERS ASSOCIATION, INC.

MATCHLINE SHEET 17

MATCHLINE SHEET 16

150' POWERLINE EASEMENT

BLOCK X-2

BLOCK X-1

BUCK ISLAND ROAD
(68' PUBLIC R/W)

P.O.C.

S50°52'48"E 89.28' L4 S50°52'48"E 115.00' C2

S46°01'21"E 589.46'

L3 S50°52'48"E 283.27'

C1 ACCESS EASEMENT (DB 912-11)

N50°52'48"W 90.56' L2 N50°52'48"W 103.81' C1 L1

N46°01'21"W 589.46'

(PARCEL IV)
SIGN EASEMENT AREA

MATCHLINE SHEET 16
MATCHLINE SHEET 15

SCALE: Scale 1" = 100' 100' 50' 0 100'

JOB NUMBER: SS 36511

SHEET 16 OF 56

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

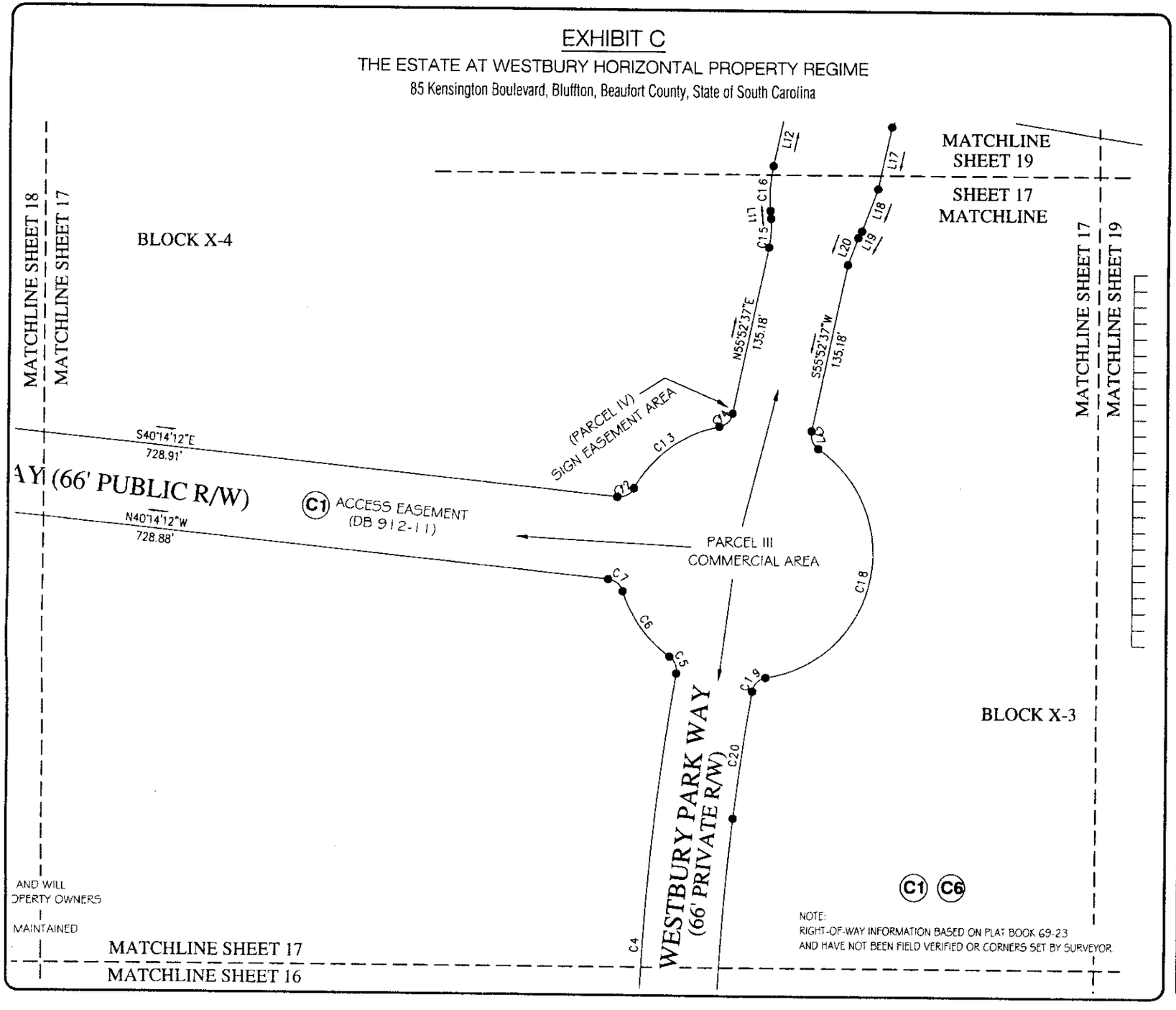
USSURVEYOR.COM
U.S. SURVEYOR®
4849 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina



NOTE:
RIGHT-OF-WAY INFORMATION BASED ON PLAT BOOK 69-23
AND HAVE NOT BEEN FIELD VERIFIED OR CORNERS SET BY SURVEYOR.

SCALE: Scale 1" = 100'
100' 50' 0 100'

SHEET 17 OF 56

JOB NUMBER: SS 38511

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

USSURVEY • USSURVEYOR.COM
U.S. SURVEYOR®
4992 RIVERSIDE POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Book2310/Page2069

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina

NOTES:

1. ARLEY WAY AND WESTBURY PARK WAY ARE PRIVATE ROADS AND WILL BE MAINTAINED BY WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS ASSOCIATION, INC.
2. KENSINGTON BOULEVARD IS A PRIVATE ROAD AND WILL BE MAINTAINED BY WESTBURY PARK RESIDENTIAL OWNERS ASSOCIATION, INC.

SCALE: Scale 1" = 100' (100' 50' 0 100')

JOB NUMBER: SS 36511

SHEET 18 OF 56

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

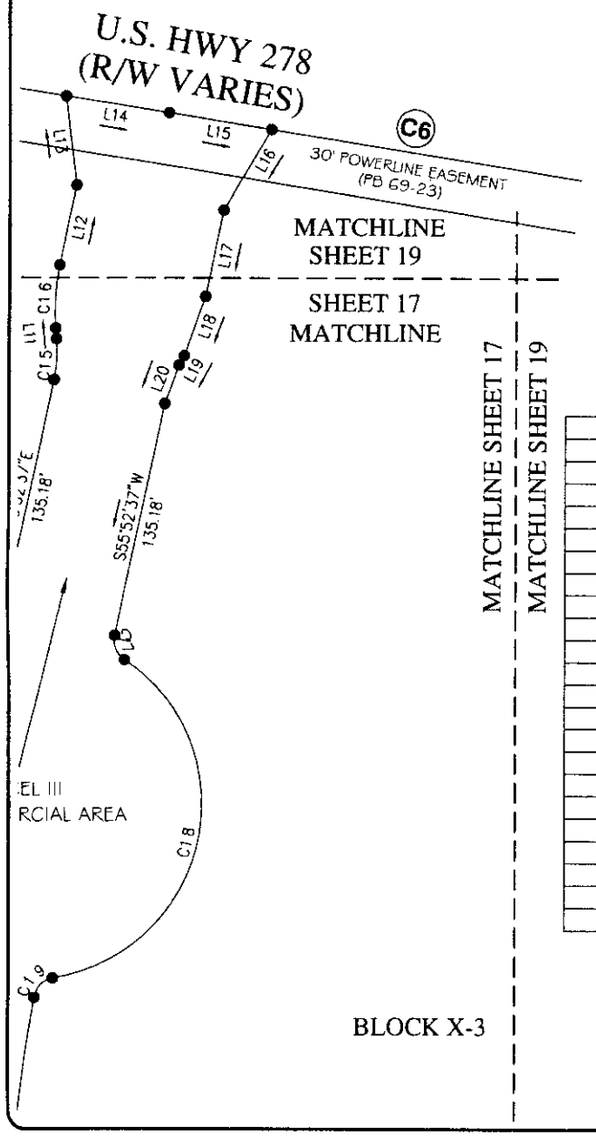
USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
2890 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT C

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

85 Kensington Boulevard, Bluffton, Beaufort County, State of South Carolina



LINE TABLE		
LINE	LENGTH	BEARING
L1	11.19'	N50°52'48"W
L2	37.43'	N60°52'48"W
L3	73.01'	N40°07'29"E
L4	37.43'	S40°52'48"E
L5	20.23'	N35°21'44"E
L6	24.29'	N40°14'12"W
L7	40.93'	N68°17'12"W
L8	119.88'	N42°14'58"E
L9	39.24'	S19°57'26"E
L10	39.26'	S40°14'12"E
L11	6.14'	N38°54'24"E
L12	46.61'	N55°52'37"E
L13	51.67'	N36°55'19"E
L14	59.86'	S36°56'37"E
L15	60.23'	S36°56'37"E
L16	53.62'	S74°32'10"W
L17	50.58'	S55°52'37"W
L18	35.99'	S64°21'43"W
L19	6.14'	S72°50'50"W
L20	23.25'	S64°21'43"W
L21	20.23'	S52°35'44"W

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	DIRECTION	CHORD
C1	14.41'	170.00'	4°51'29"	7.21	N48°27'05"W	14.41'
C2	19.51'	230.00'	4°51'33"	9.76	S48°27'05"E	19.50'
C3	27.10'	15.00'	103°30'11"	19.03	N88°58'39"E	23.56'
C4	433.05'	2033.00'	12°12'16"	217.35	N47°38'22"E	432.23'
C5	15.57'	13.00'	68°38'40"	8.88	N21°25'01"E	14.66'
C6	65.09'	100.00'	37°17'44"	33.75	N07°25'22"E	63.95'
C7	15.95'	13.00'	70°18'25"	9.15	N07°14'50"W	14.97'
C8	25.04'	78.50'	18°16'24"	12.63	N49°20'02"W	24.93'
C9	38.74'	121.50'	18°16'14"	19.54	N49°20'03"W	38.58'
C10	38.74'	121.50'	18°16'14"	19.54	S31°08'21"E	38.58'
C11	25.04'	78.50'	18°16'24"	12.63	S31°08'21"E	24.93'
C12	15.95'	13.00'	70°18'25"	9.15	S73°13'33"E	14.97'
C13	87.11'	100.00'	49°54'33"	46.53	N82°02'28"W	84.38'
C14	16.03'	13.00'	70°37'51"	9.21	N89°00'17"E	15.03'
C15	23.34'	78.50'	17°01'57"	11.75	N47°23'30"E	23.25'
C16	36.12'	121.50'	17°02'04"	18.20	N47°23'30"E	35.99'
C17	16.03'	13.00'	70°37'51"	9.21	S22°44'56"W	15.03'
C18	240.78'	100.00'	137°57'21"	260.21	S56°31'28"W	186.69'
C19	16.35'	13.00'	72°02'29"	9.45	S87°21'23"W	15.29'
C20	102.37'	1967.00'	2°58'55"	51.20	S52°10'33"W	102.36'
C21	316.80'	1967.00'	9°13'41"	158.74	S46°04'34"W	316.46'
C22	27.10'	15.00'	103°30'11"	19.03	S01°01'21"E	23.56'

SCALE: Scale 1" = 100' (100' 50' 0 100')

JOB NUMBER: SS 38511

SHEET 19 OF 56

SHEET NAME: BOUNDARY & IMPROVEMENT SURVEY

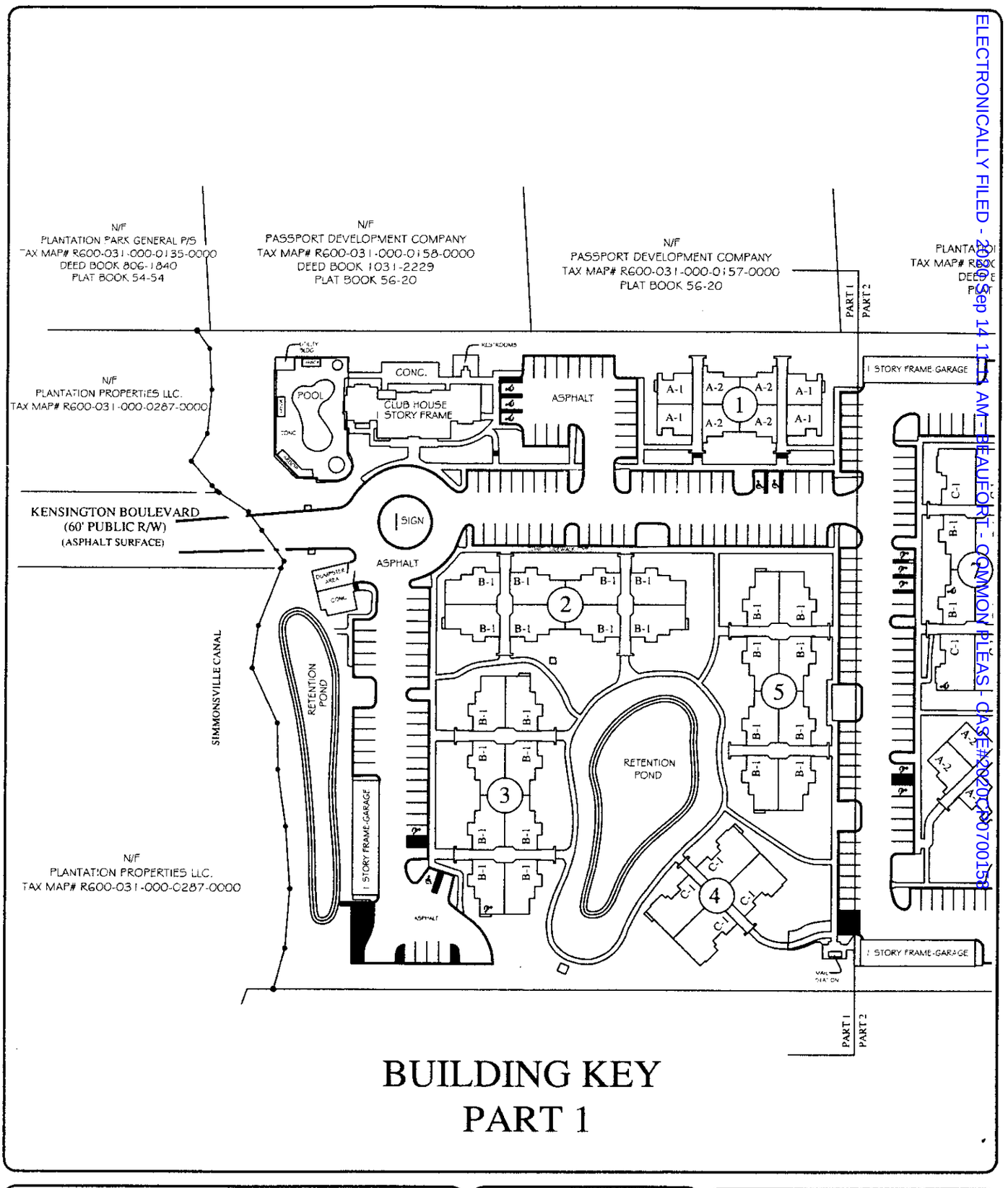
USSURVEYOR.COM
U.S. SURVEYOR
1499 RIVERBEND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Book2310/Page2071

Westbury Record on Appeal 0372

ELECTRONICALLY FILED - 2009 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



BUILDING KEY
PART 1

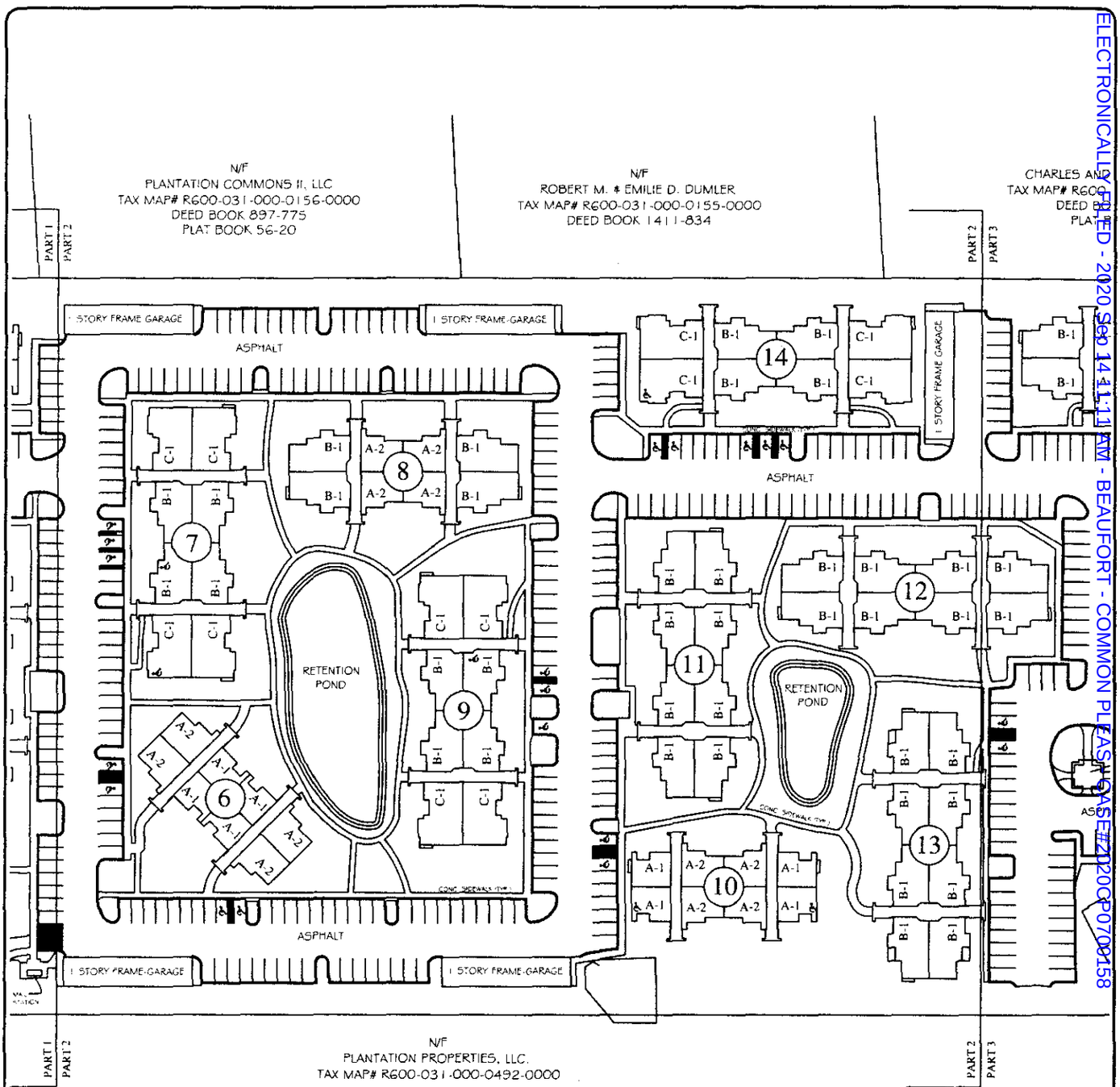
USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4080 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING UNIT LOCATION KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 38511

SHEET 20 OF 56



BUILDING KEY
PART 2

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4920 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
BUILDING UNIT LOCATION KEY MAP

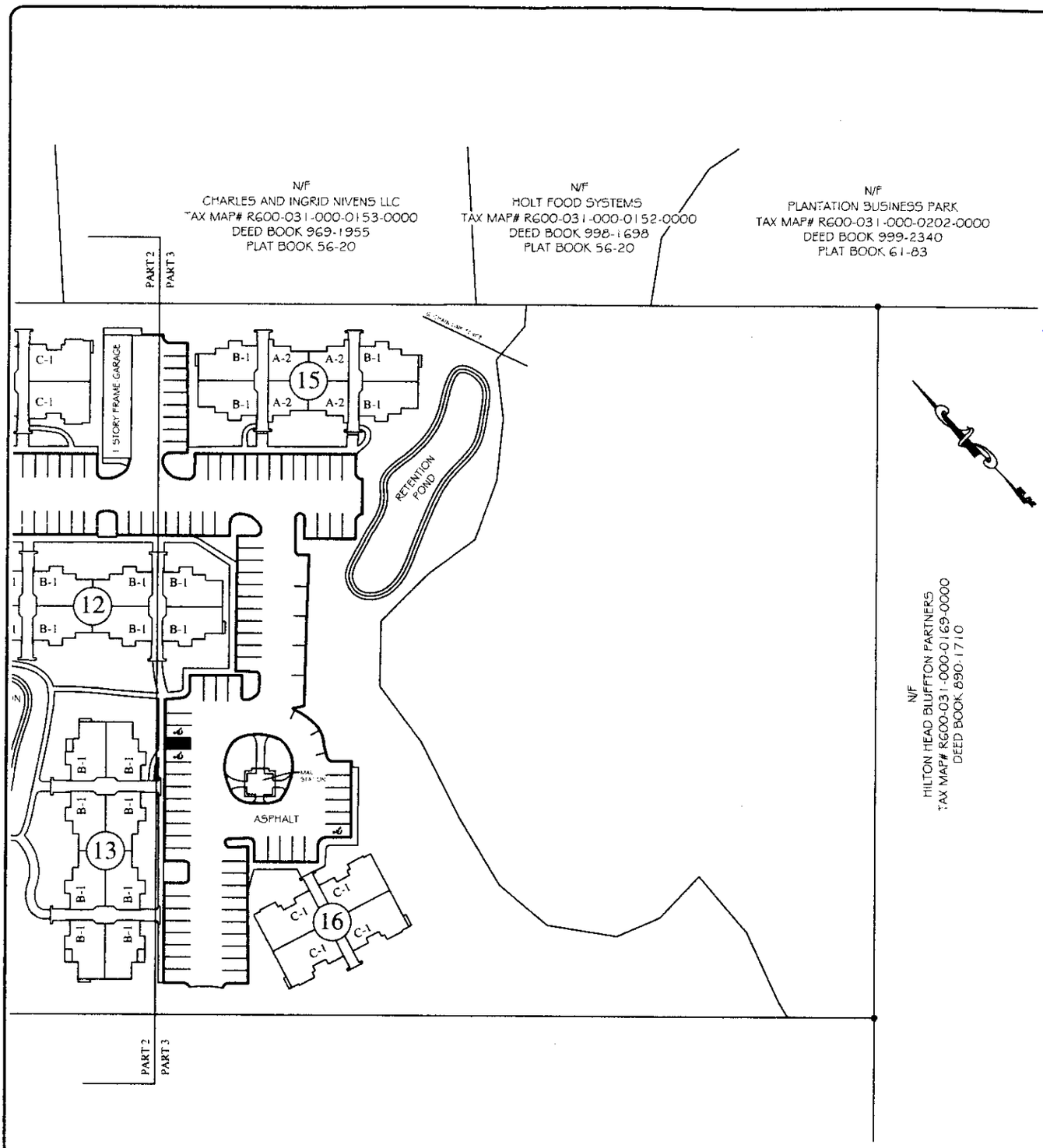
SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 21 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



BUILDING KEY
PART 3

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

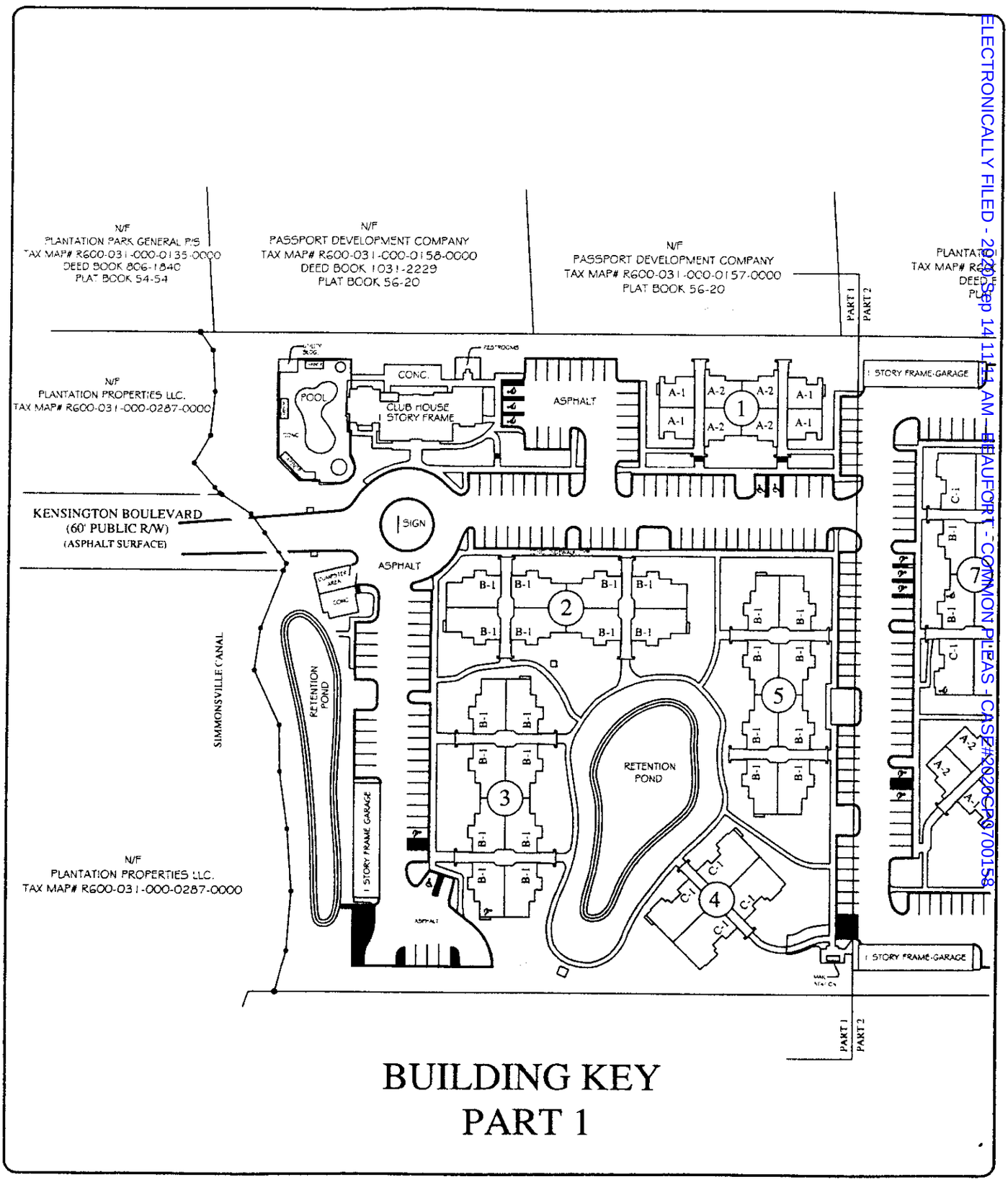
SHEET NAME:
BUILDING UNIT LOCATION KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 22 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



BUILDING KEY
PART 1

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4959 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

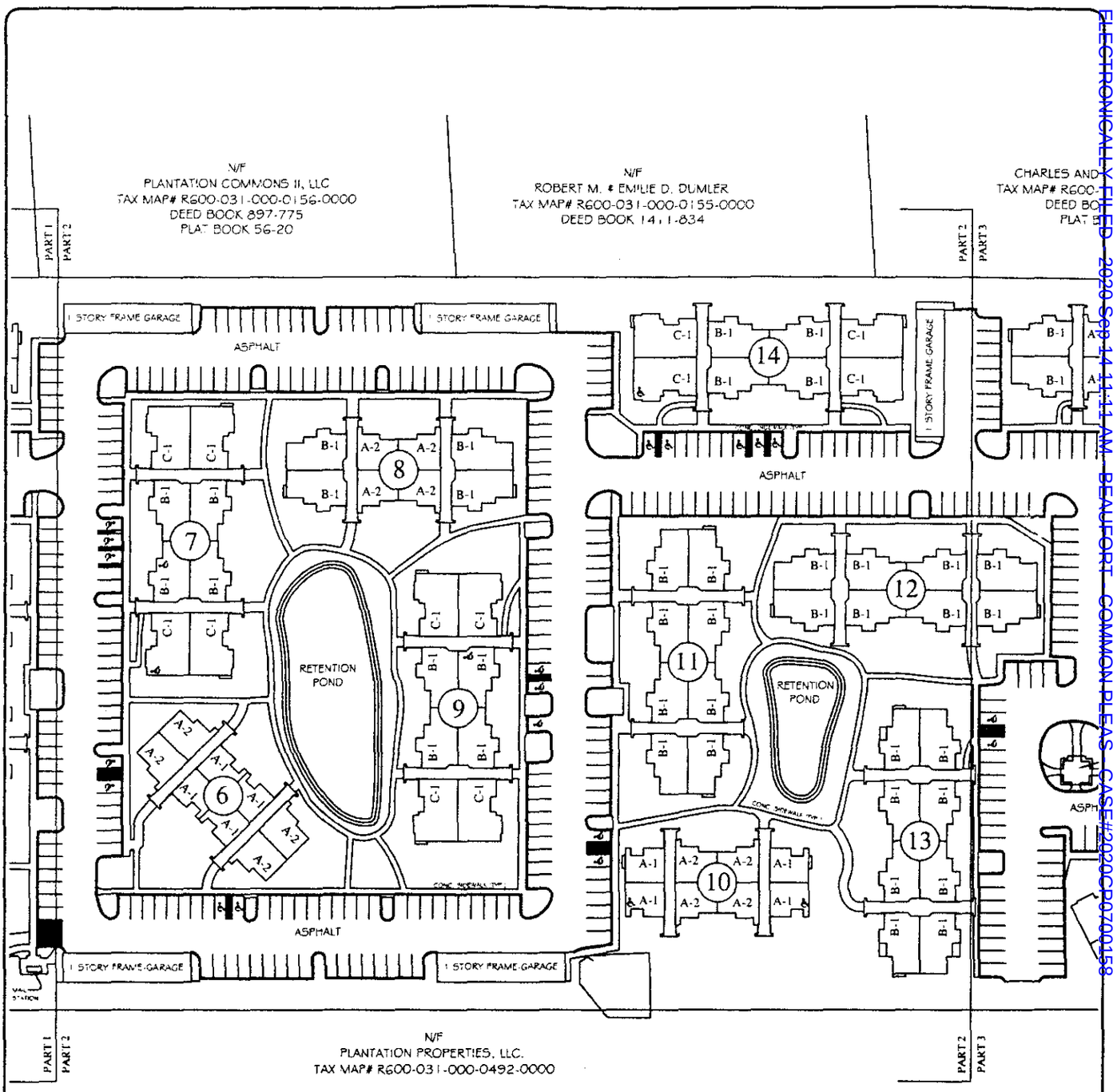
SHEET NAME:
BUILDING UNIT LOCATION KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 20 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



BUILDING KEY
PART 2

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4989 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

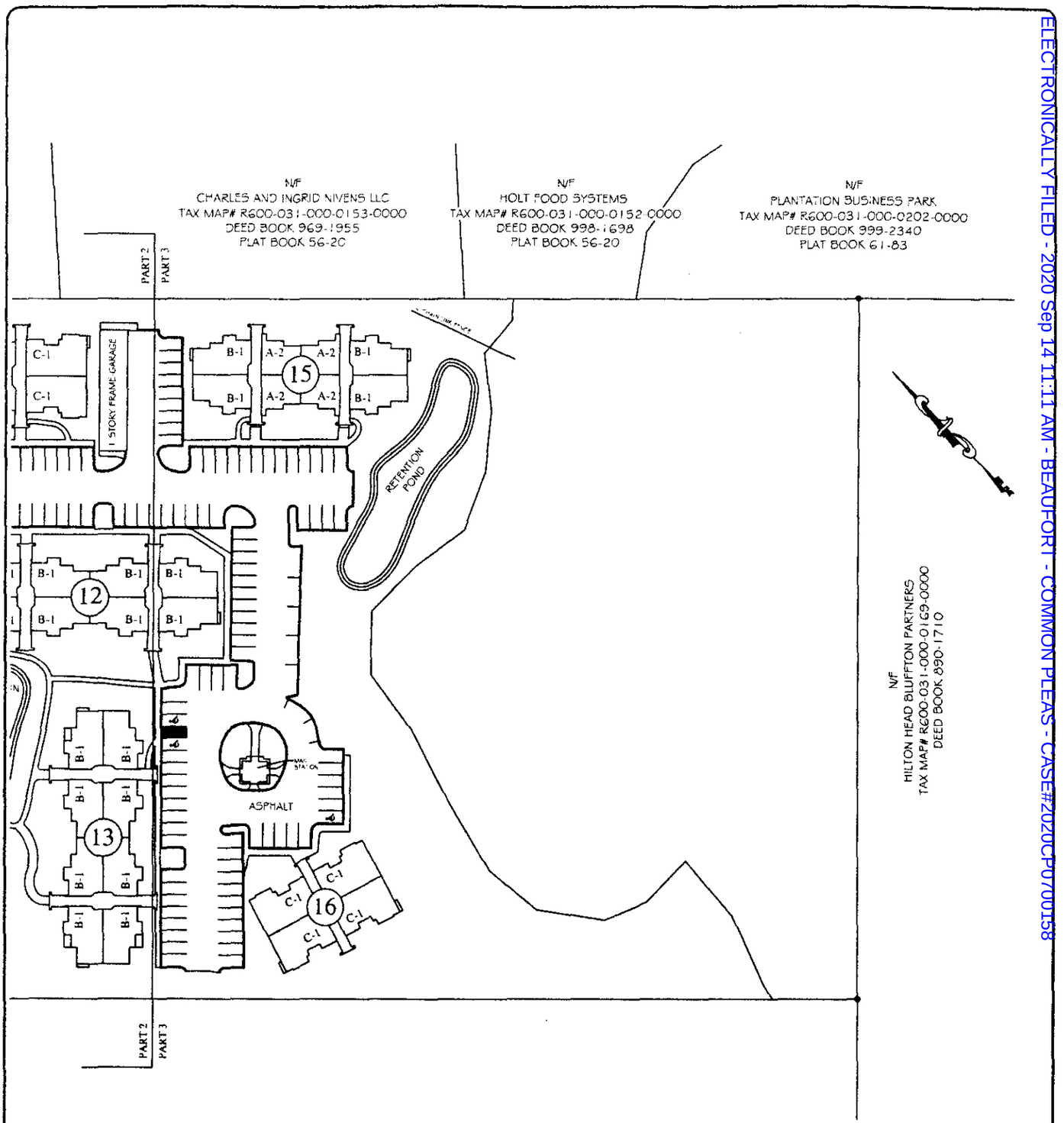
SHEET NAME:
BUILDING UNIT LOCATION KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 21 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



BUILDING KEY
PART 3

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4889 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

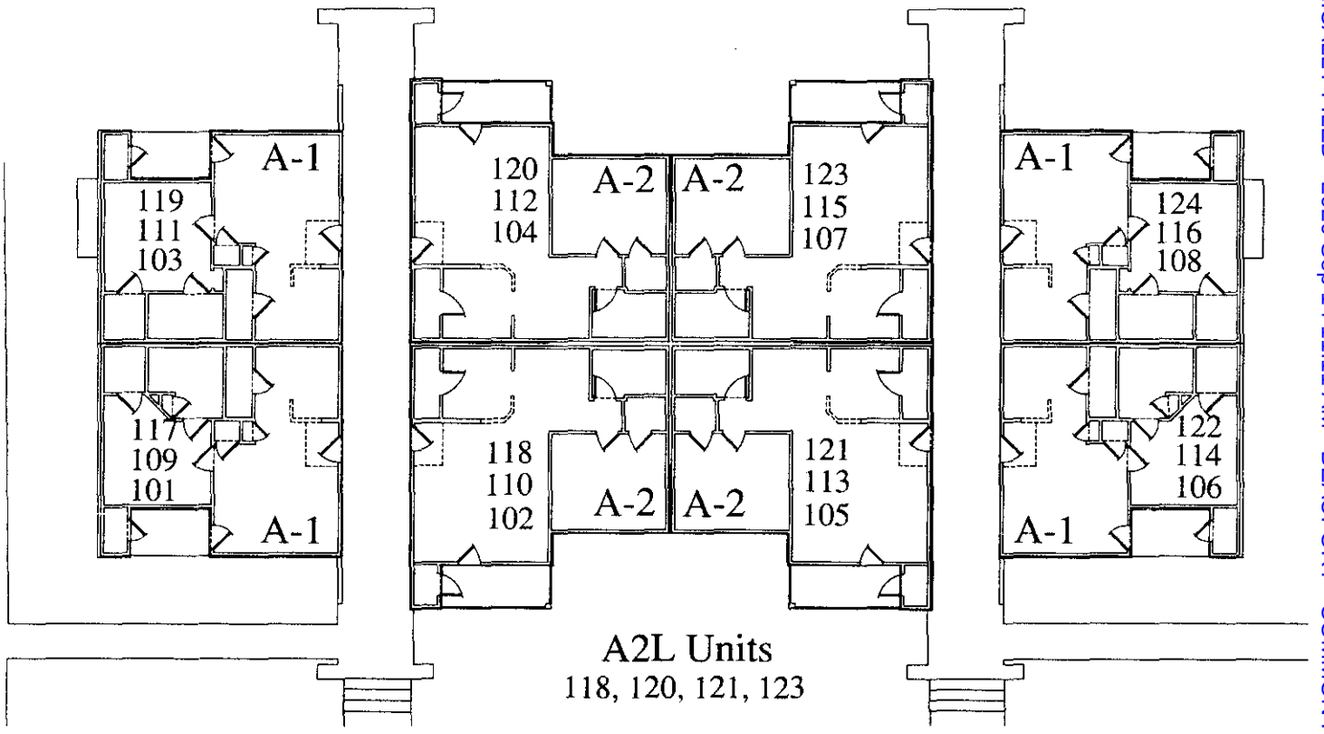
SHEET NAME:
BUILDING UNIT LOCATION KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

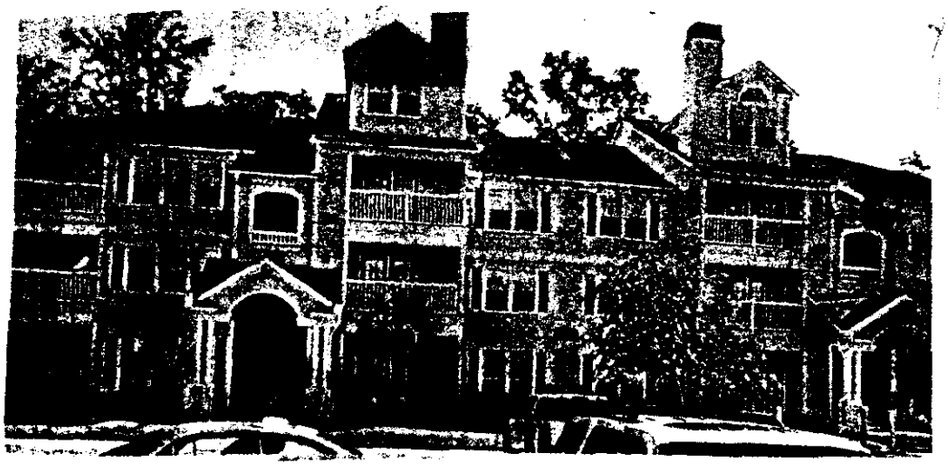
SHEET 22 OF 56

BUILDING 1 FLOOR PLAN (TYPICAL TO ALL FLOORS)



A2L Units
118, 120, 121, 123

FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 1

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4920 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

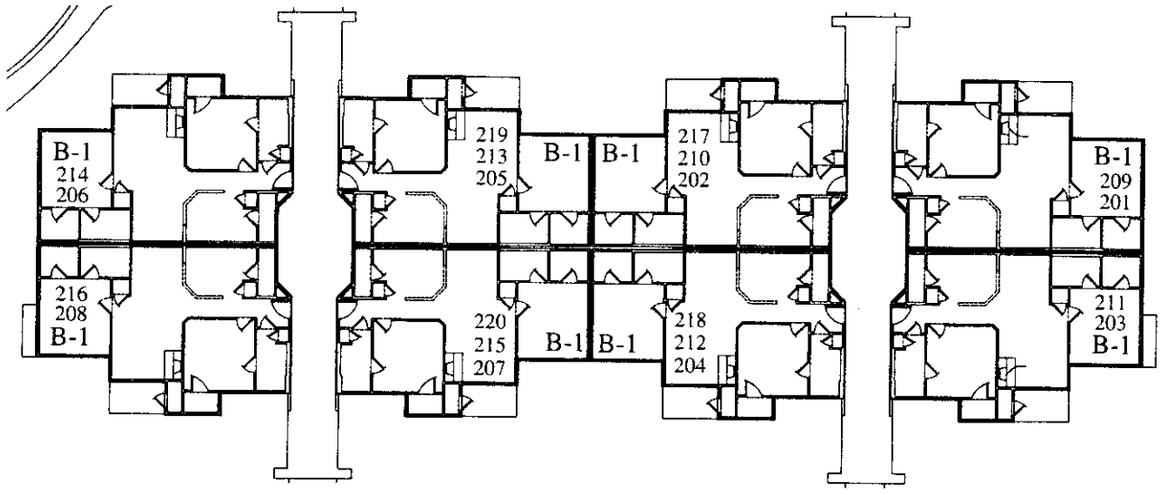
SHEET NAME:
BUILDING UNIT LOCATION KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 23 OF 56

BUILDING 2 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 2

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4088 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING 2
UNIT LOCATION
KEY MAP

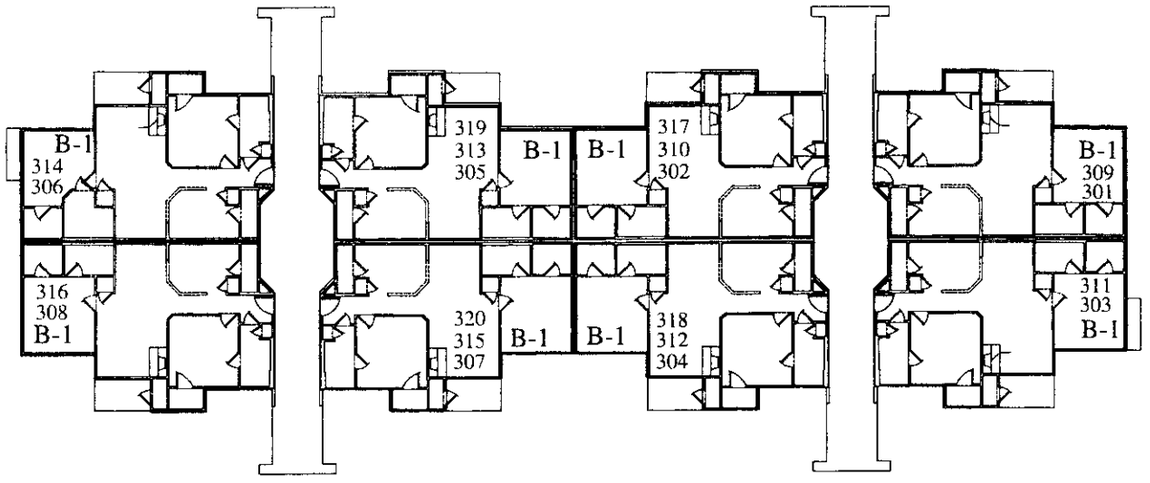
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER:
SS 36511

SHEET 24 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 3 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 3

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4089 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

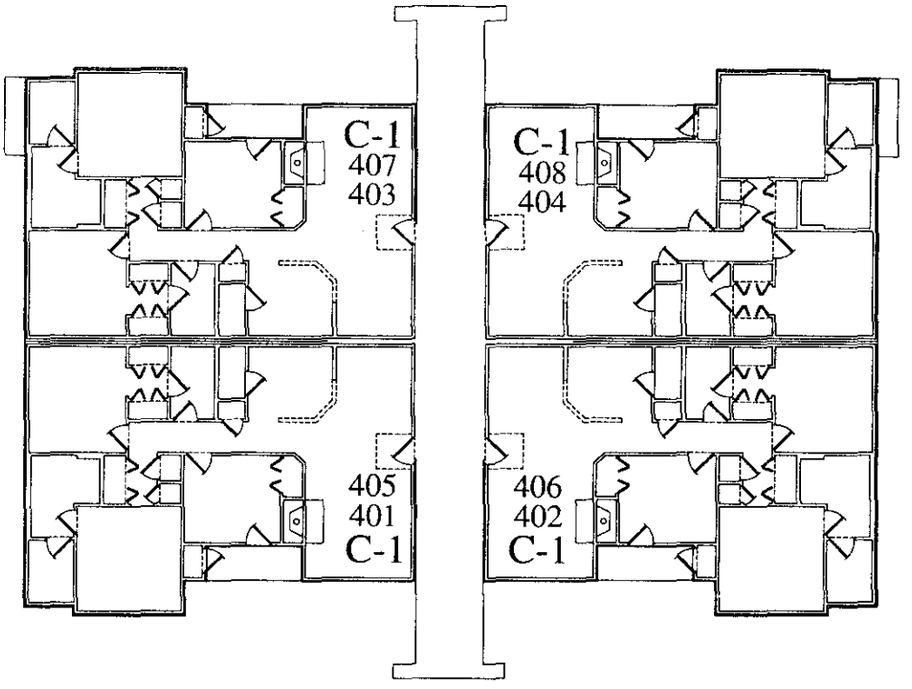
SHEET NAME:
BUILDING 3
UNIT LOCATION
KEY MAP

SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

SHEET 25 OF 56

BUILDING 4 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 4

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

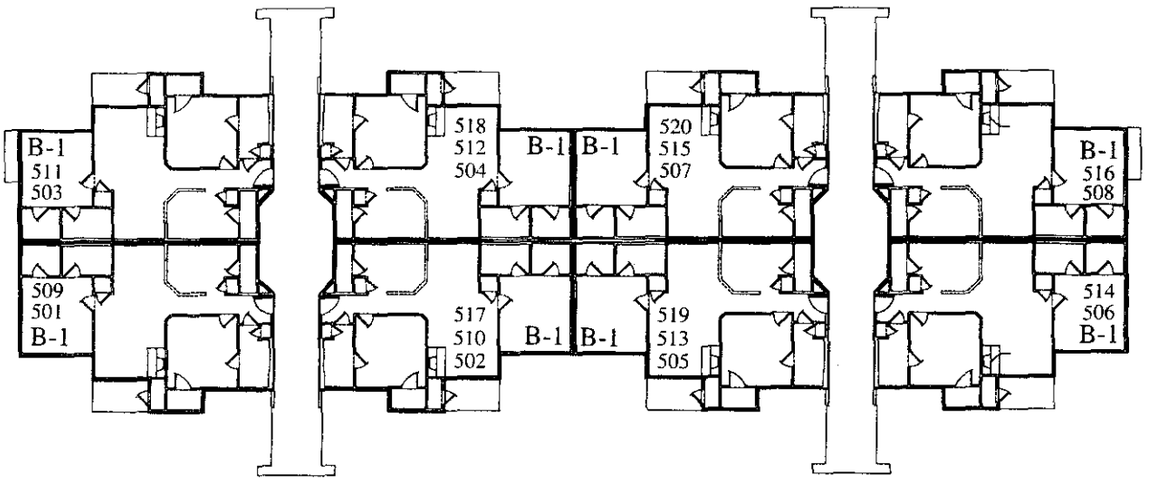
SHEET NAME:
BUILDING 4
UNIT LOCATION
KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 26 OF 56

BUILDING 5 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 5

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4229 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING 5
UNIT LOCATION
KEY MAP

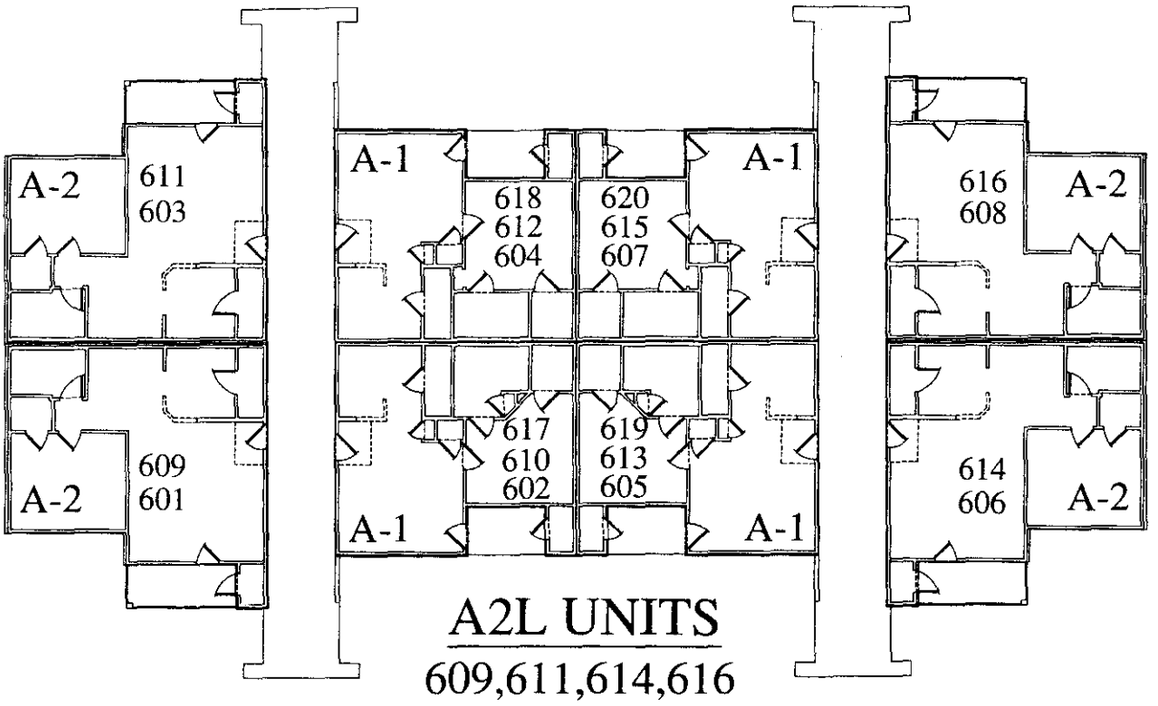
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

SHEET 27 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700150

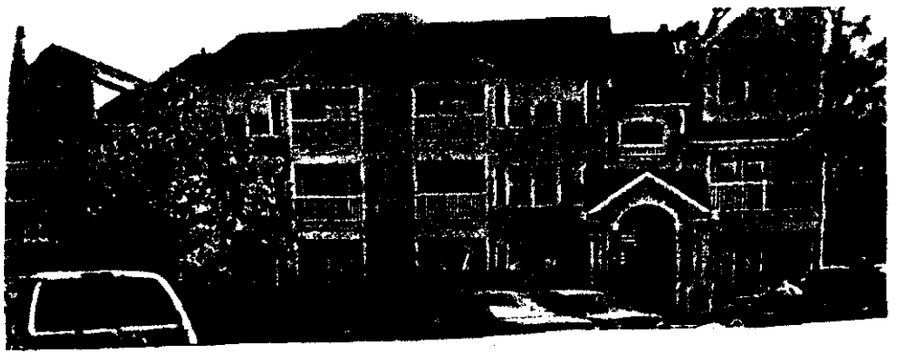
BUILDING 6 FLOOR PLAN (TYPICAL TO ALL FLOORS)



A2L UNITS

609,611,614,616

FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 6

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4989 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
BUILDING 6
UNIT LOCATION
KEY MAP

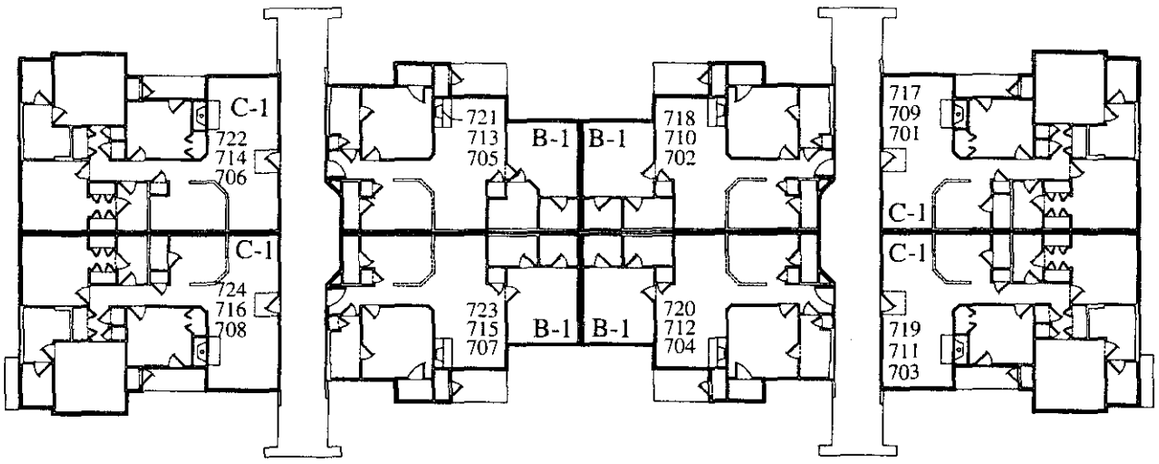
SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 28 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 7 FLOOR PLAN (TYPICAL TO ALL FLOOR PLANS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 7

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4889 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING 7
UNIT LOCATION
KEY MAP

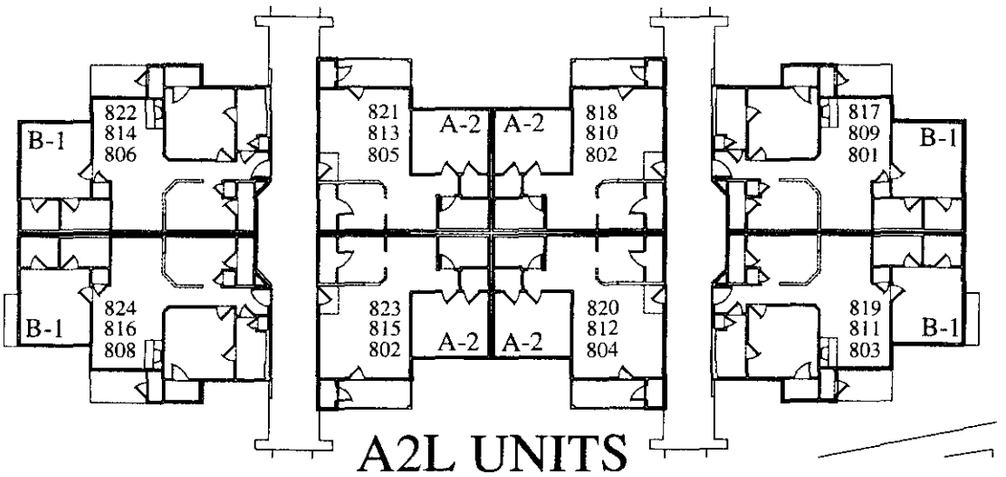
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

SHEET 29 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 8 FLOOR PLAN (TYPICAL TO ALL FLOORS)



A2L UNITS

818,820,821,823

FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 8

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
BUILDING 8
UNIT LOCATION
KEY MAP

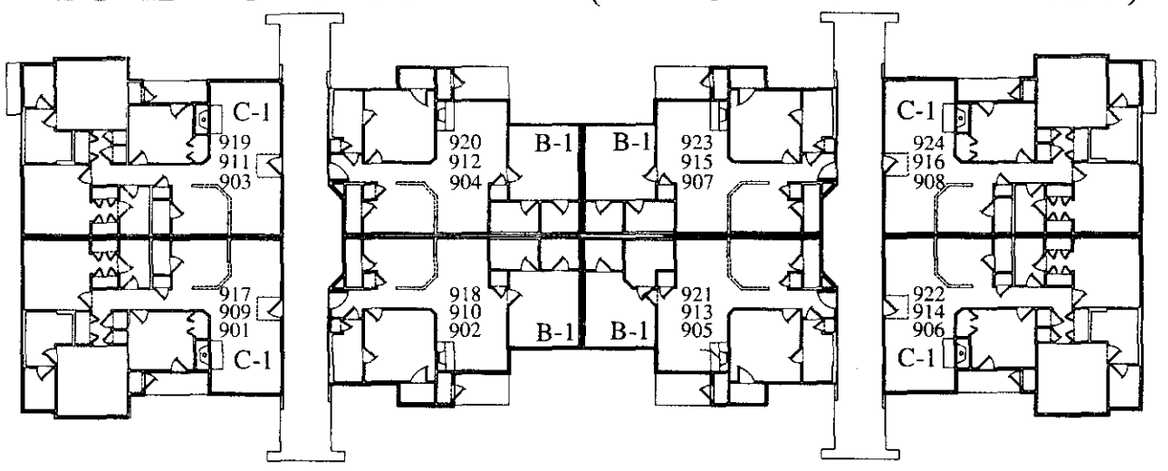
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

SHEET 30 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 9 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 9

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4889 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
BUILDING 9
UNIT LOCATION
KEY MAP

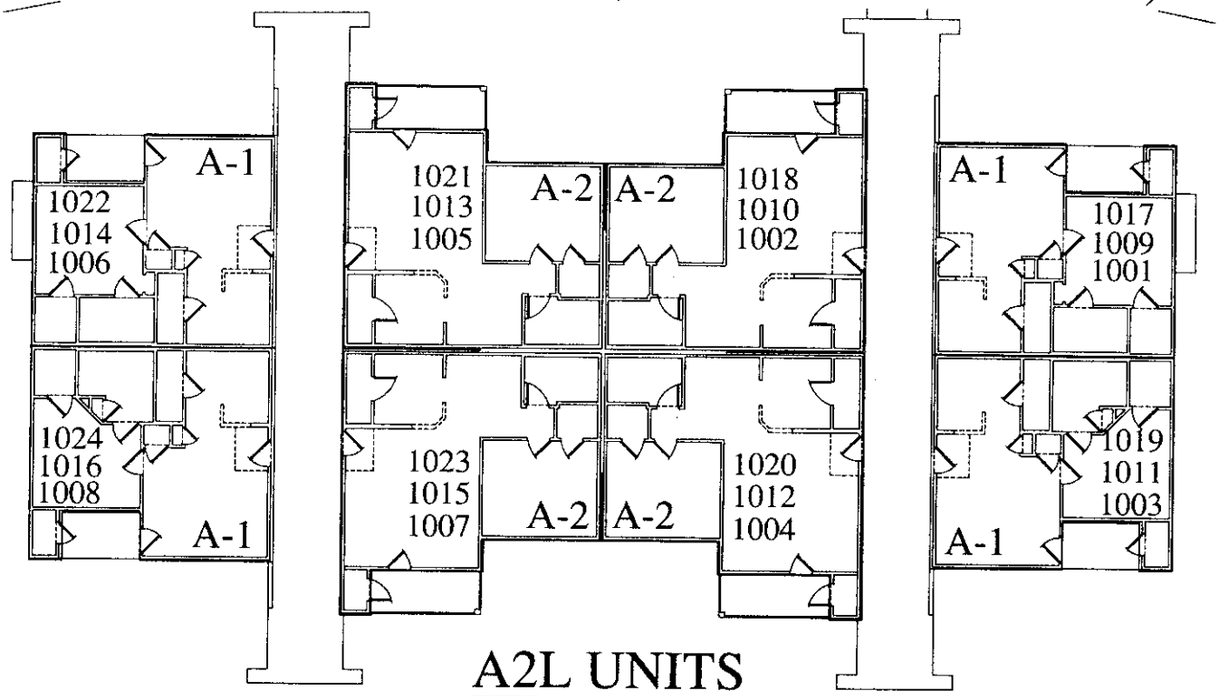
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER:
SS 36511

SHEET 31 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 10 FLOOR PLAN (TYPICAL TO ALL FLOORS)



A2L UNITS

1018,1020,1021,1023

FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 10

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4888 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING 10
UNIT LOCATION
KEY MAP

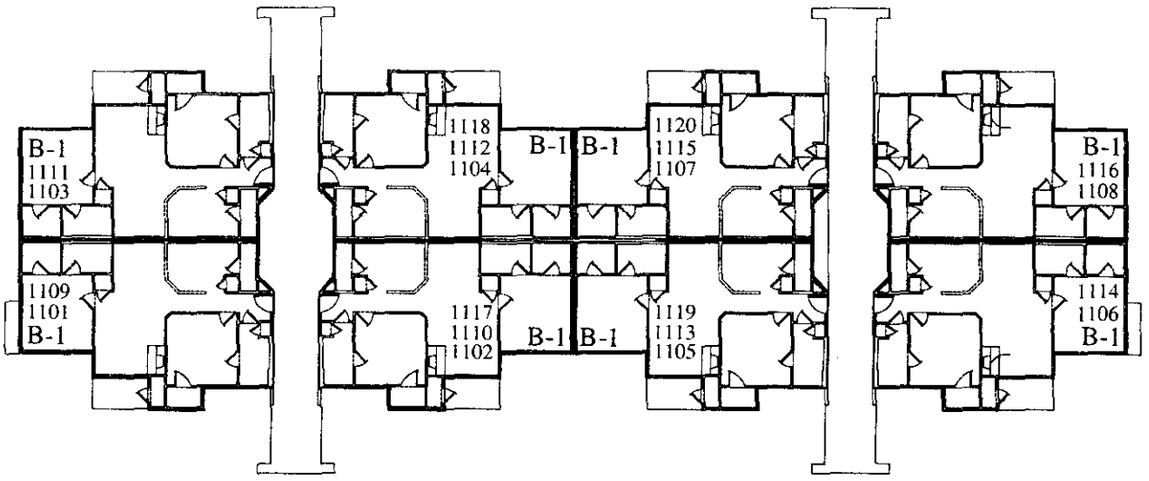
SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 32 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 11 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 11

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4989 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
BUILDING 11
UNIT LOCATION
KEY MAP

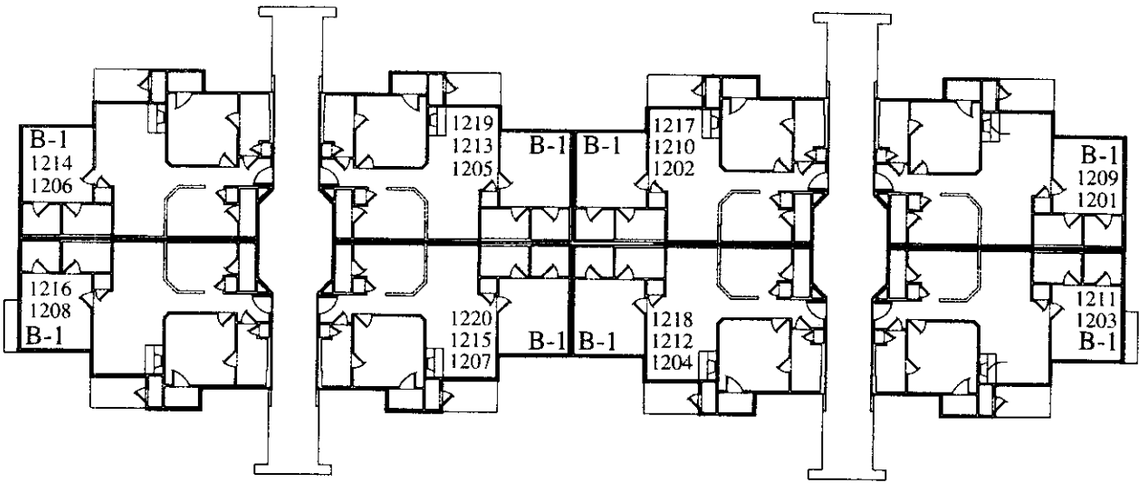
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

SHEET 33 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 12 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 12

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
BUILDING 12
UNIT LOCATION
KEY MAP

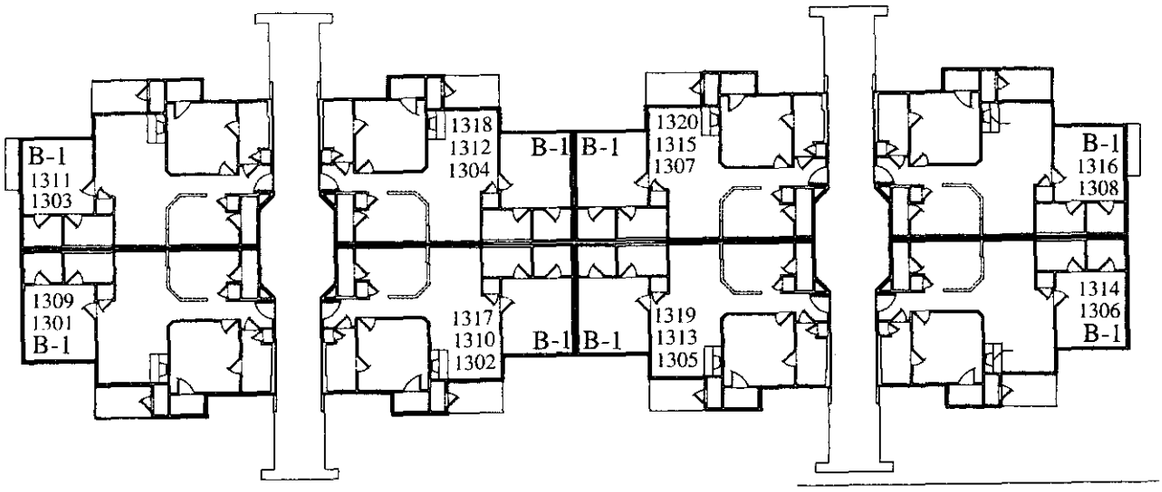
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

SHEET 34 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 13 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 13

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4939 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING 13
UNIT LOCATION
KEY MAP

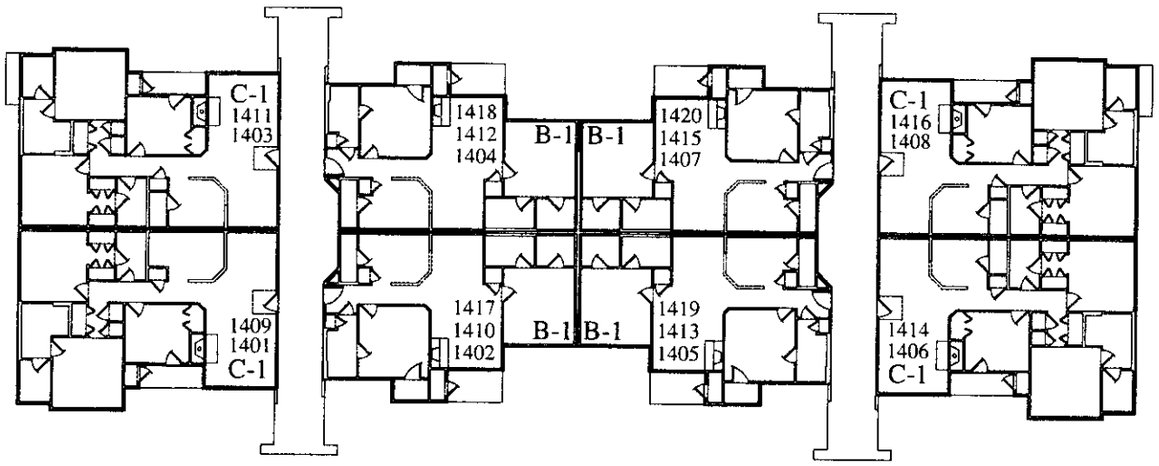
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

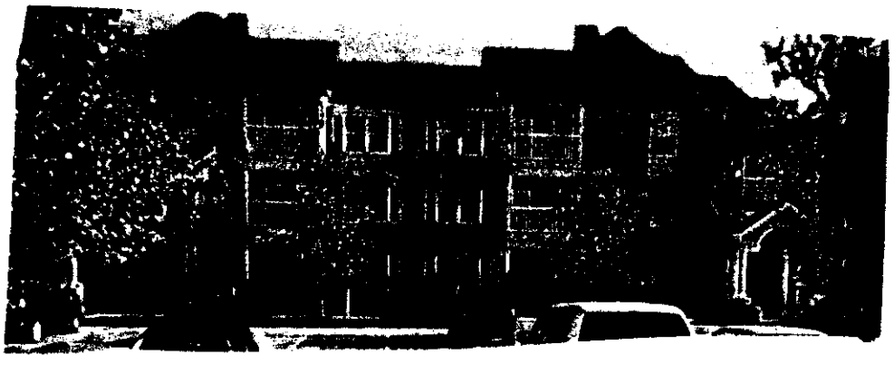
SHEET 35 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 14 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 14

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
BUILDING 14
UNIT LOCATION
KEY MAP

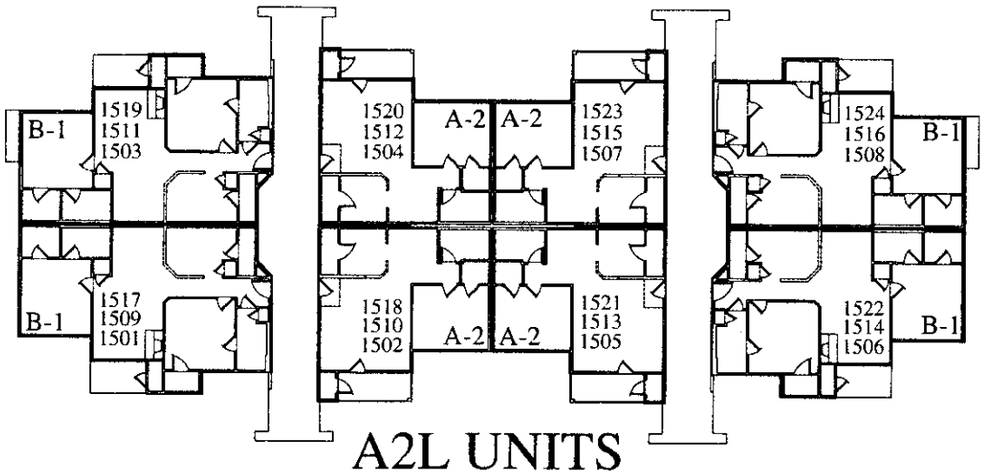
SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 38511

SHEET 36 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BUILDING 15 FLOOR PLAN (TYPICAL TO ALL FLOORS)



A2L UNITS

1518,1520,1521,1523

FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 15

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4989 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

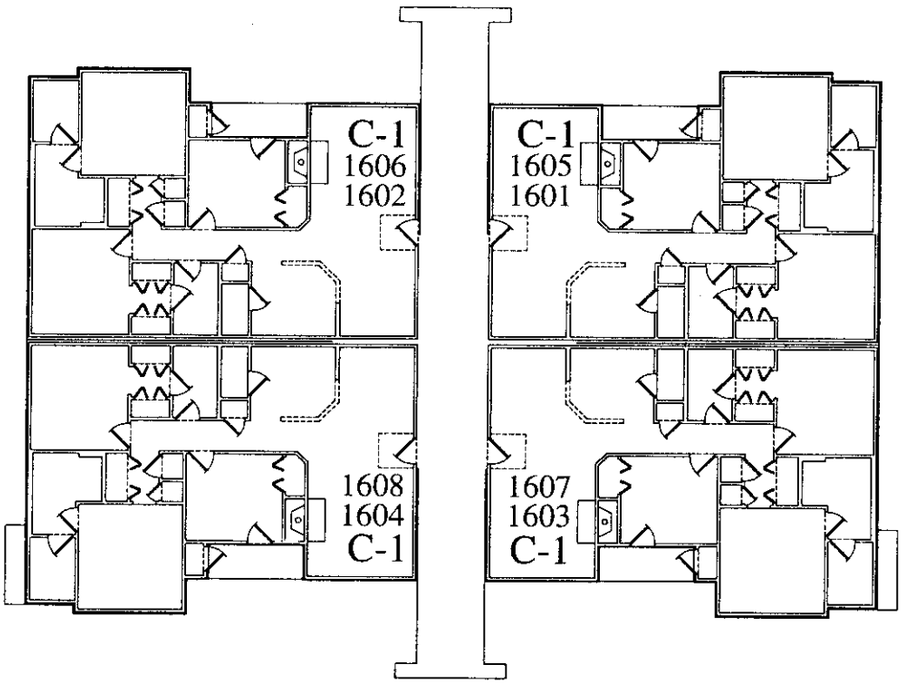
SHEET NAME:
BUILDING 15
UNIT LOCATION
KEY MAP

SCALE: Scale 1" = 30'
30 15 0 30

JOB NUMBER: SS 36511

SHEET 37 OF 56

BUILDING 16 FLOOR PLAN (TYPICAL TO ALL FLOORS)



FOOTNOTE: WHERE MORE THAN ONE UNIT NUMBER IS SHOWN WITHIN A FLOOR PLAN, THE BOTTOM UNIT NUMBER SHOWN IS ON THE FIRST FLOOR, THE MIDDLE UNIT NUMBER IS ON THE SECOND FLOOR AND ANY THIRD NUMBER IS ON THE THIRD FLOOR.



BUILDING 16

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4829 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

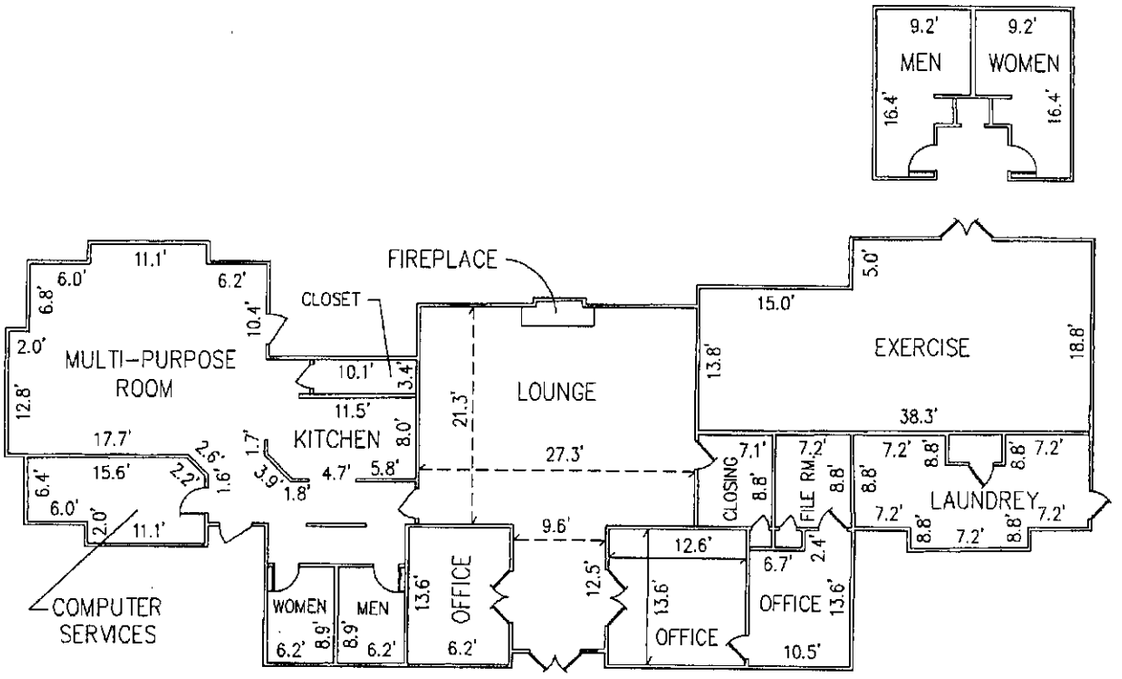
SHEET NAME:
BUILDING 16
UNIT LOCATION
KEY MAP

SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 38 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158





CLUBHOUSE
3,401 SQ.FT.
RESTROOMS
275 SQ.FT.
(COMMON ELEMENT)

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME:
CLUBHOUSE
UNIT LOCATION
KEY MAP

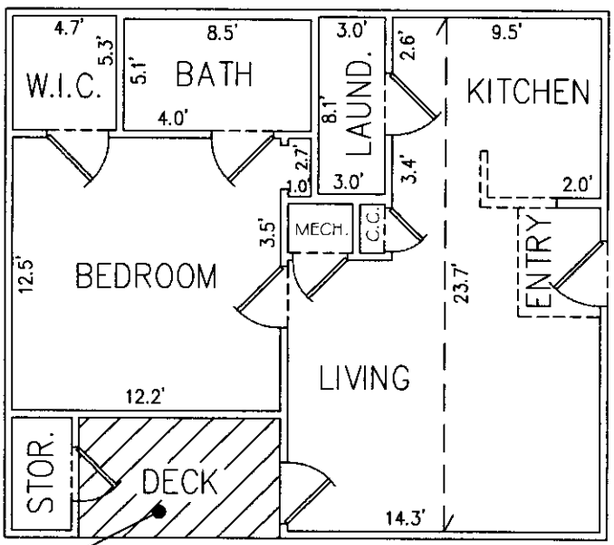
SCALE: Scale 1" = 20'
20 10 0 20

JOB NUMBER: SS 36511

SHEET 39 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



LIMITED COMMON ELEMENT FOR UNIT

Unit A1

586 sq.f.t

Unit Numbers

101,103,106,108,109,111,114,116,117,119,122,124,
602,604,605,607,610,612,613,615,617,618,619,620,
1001,1003,1006,1008,1009,1011,1014,1016,1017,1019,1022,1024

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

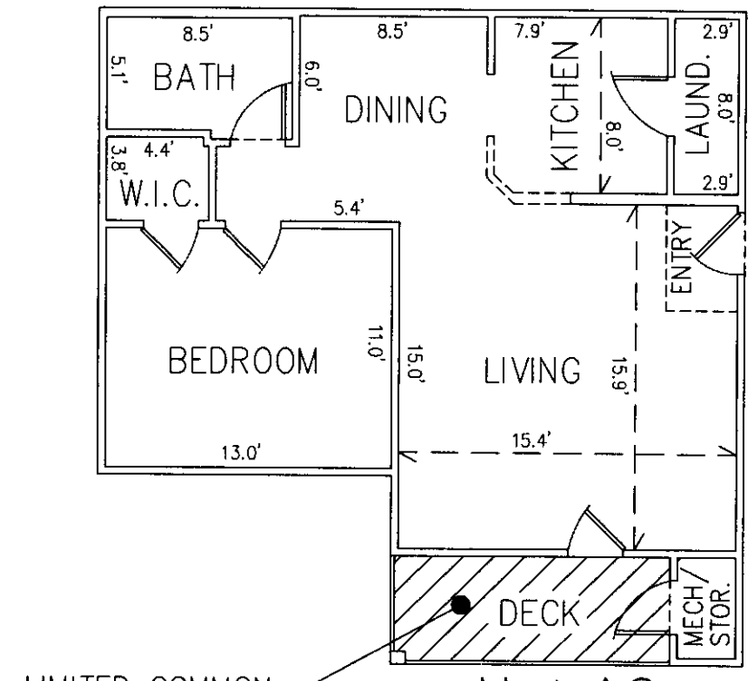
SHEET NAME: TYPICAL UNIT A1 DETAIL

SCALE: Scale 1" = 8'
8 4 0 8

JOB NUMBER: SS 36511

SHEET 40 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Unit A2

672 sq.ft.

Unit Numbers

102,104,105,107,110,112,113,115,
601,603,606,608,
802,804,805,807,810,812,813,815,
1002,1004,1005,1007,1010,1012,1013,1015,
1502,1504,1505,1507,1510,1512,1513,1515

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4939 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

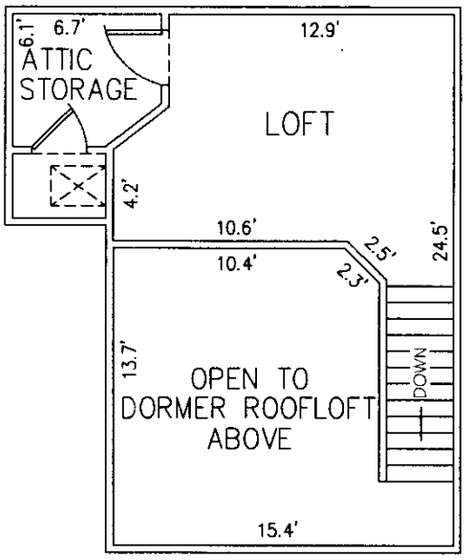
SHEET NAME: TYPICAL UNIT A2 DETAIL

SCALE: Scale 1" = 8'
8 4 0 8

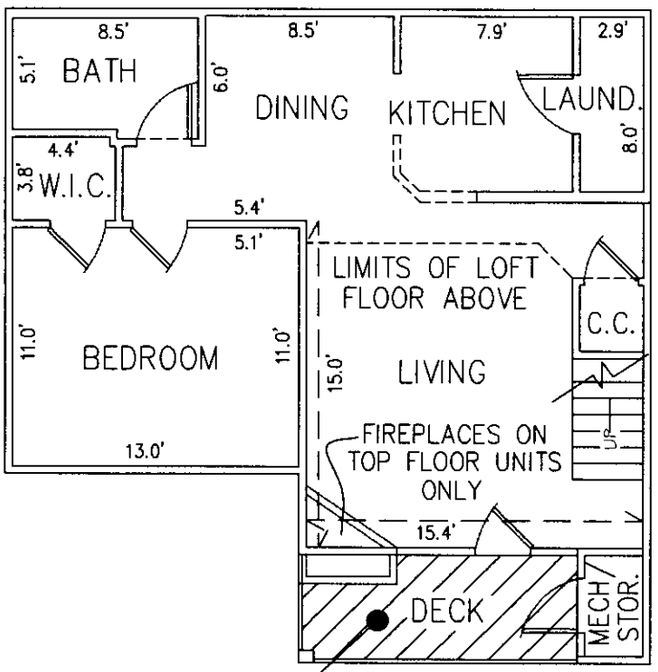
JOB NUMBER: SS 36511

SHEET 41 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Unit A2 Loft
Upper Plan
211 sq.ft.



LIMITED COMMON ELEMENT FOR UNIT

Unit A2 Loft
Lower Plan
672 sq.ft.

Unit Numbers

118,120,121,123,
609,611,614,616,
818,820,821,823,
1018,1020,1021,1023,
1518,1520,1521,1523

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

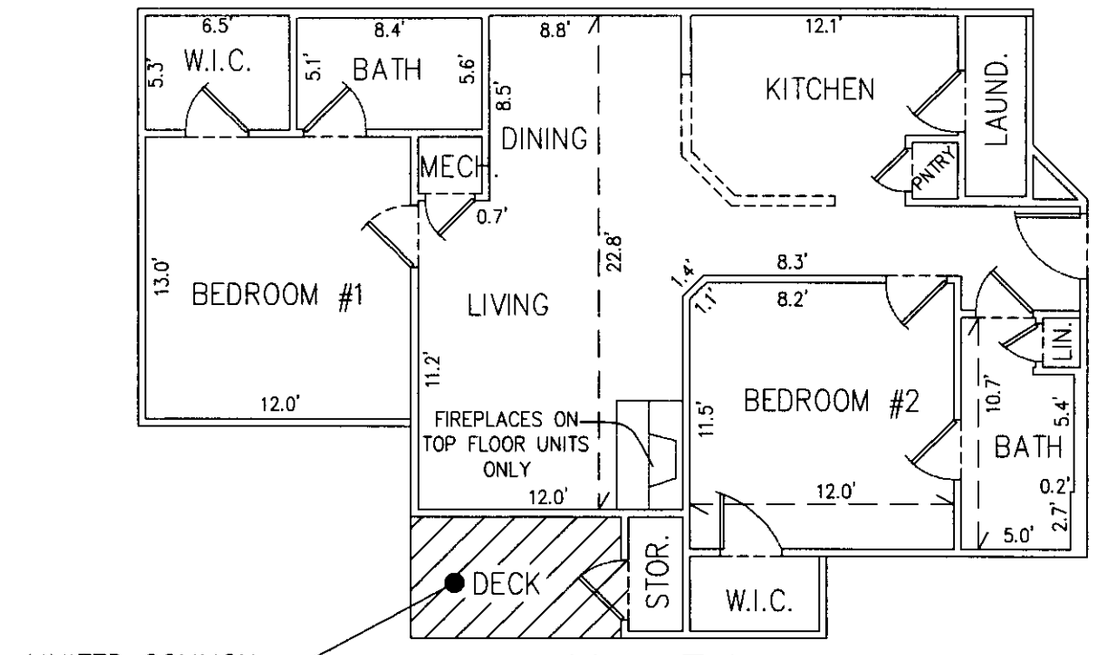
SHEET NAME: TYPICAL UNIT A2 W/LOFT LOWER DETAIL

SCALE: Scale 1" = 8'
8 4 0 8

JOB NUMBER: SS 36511

SHEET 42 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0200738



Unit B1

968 sq.ft.

Unit Numbers

201,202,203,204,205,206,207,208,209,210,211,212,213,214,215,216,217,218,219,220,
301,302,303,304,305,306, 307,308,309,310,311,312,313,314,315,316,317,318,319,320,
501,502,503,504,505,506,507,508,509,510,511,512, 513,514,515,516,517,518,519,520,
702,704,705,707,710,712,713,715,718,720,721,723,801,803,806,808,809,811,814,816,817,819,822,824,
902,904,905,907,910,912,913,915,918,920,921,923
1101,1102,1103,1104,1105,1106,1107,1108,1109,1110,1111,1112,1113,1114,1115,1116,1117,1118,1119,1120,
1201,1202,1203,1204,1205,1206,1207,1208,1209,1210,1211,1212,1213,1214,1215,1216,1217,1218,1219,1220,
1301,1302,1303,1304,1305,1306,1307,1308,1309,1310,1311,1312,1313,1314,1315,1316,1317,1318,1319,1320,
1402,1404,1405,1407,1410,1412,1413,1415,1417,1418,1419,1420
1501,1503,1506,1508,1509,1511,1514,1516,1517,1519,1522,1524

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4029 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

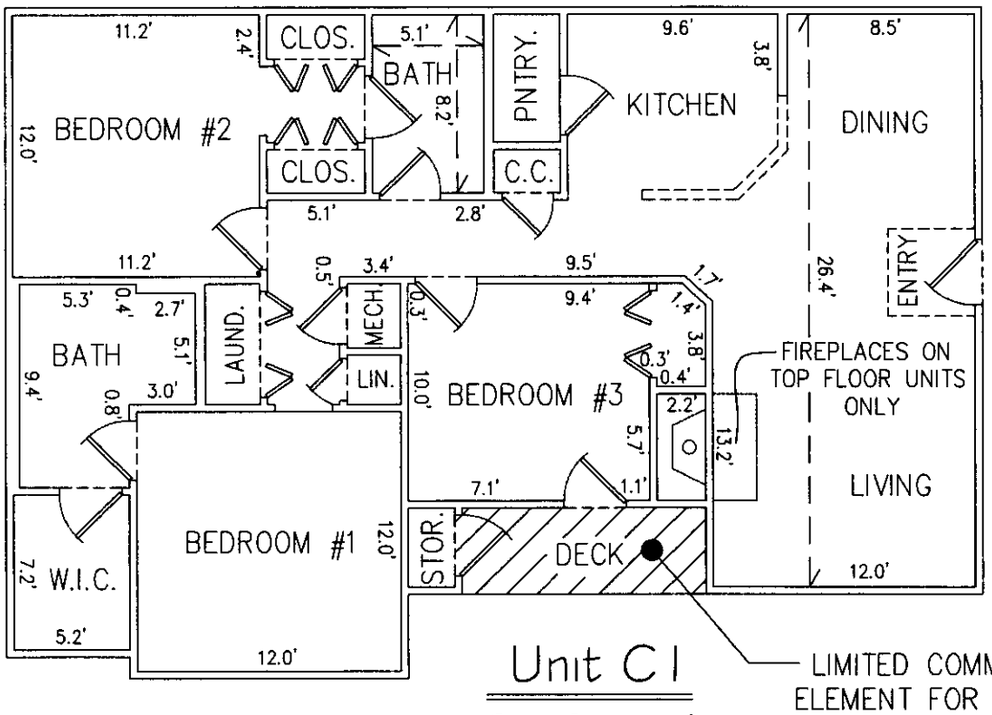
SHEET NAME: TYPICAL UNIT B1 DETAIL

SCALE: Scale 1" = 8'
8 4 0 8

JOB NUMBER: SS 36511

SHEET 43 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Unit C1

1216 sq.ft.

Unit Numbers

401,402,403,404,405,406,407,408,
701,703,706,708,709,711,714,716,717,719,722,724,
901,903,906,908,909,911,914,916,917,919,922,924,
1401,1403,1406,1408,1409,1411,1414,1416
1601,1602,1603,1604,1605,1606,1607,1608

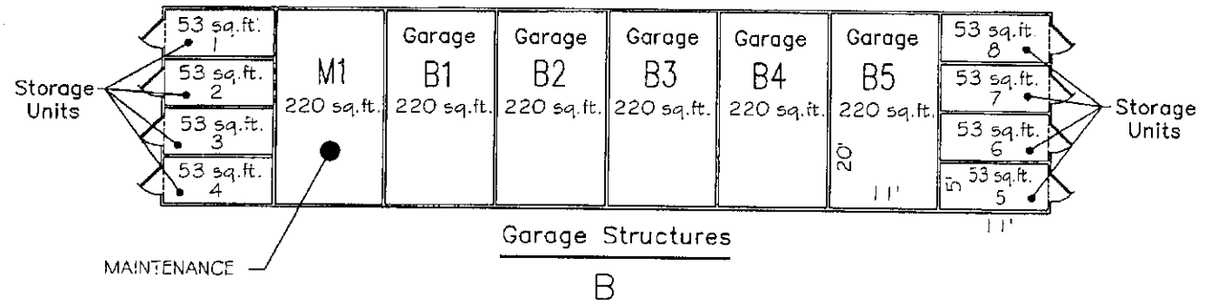
USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4029 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

SHEET NAME: TYPICAL UNIT C1 DETAIL

SCALE: Scale 1" = 8'
8 4 0 8

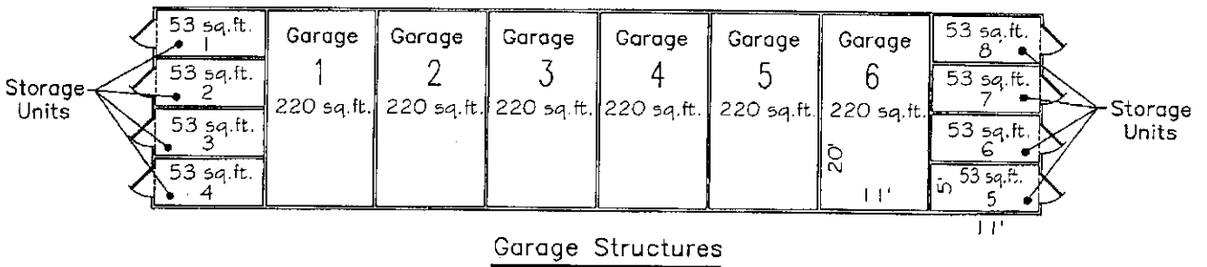
JOB NUMBER: SS 36511

SHEET 44 OF 56



Garage Structures

B



Garage Structures

C, D, E, F

NOTE:
THE NUMBER SHOWN WITHIN A BAY, SUCH AS "1" IS A GARAGE UNIT NUMBER AND SHOWS TYPICAL LOCATION OF THAT GARAGE UNIT. FOR EXAMPLE, IN GARAGE STRUCTURE C, THE GARAGE UNIT NUMBER FOR BAY 1 WOULD BE C1. GARAGE COMMON ELEMENTS ARE DEFINED IN THE MASTER DEED.

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4889 RIVERWIND POINTS DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
TYPICAL GARAGE STRUCTURE PLAN AND DETAIL

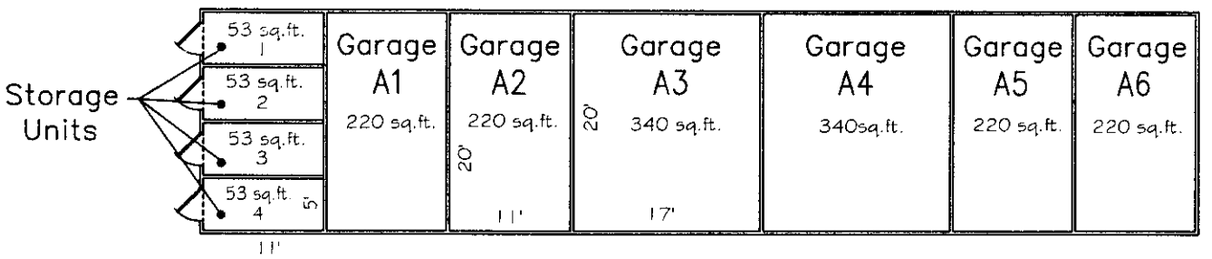
SCALE: Scale 1" = 16'
16 8 0 16

JOB NUMBER: SS 38511

SHEET 45 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Garage Structures

A

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4889 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

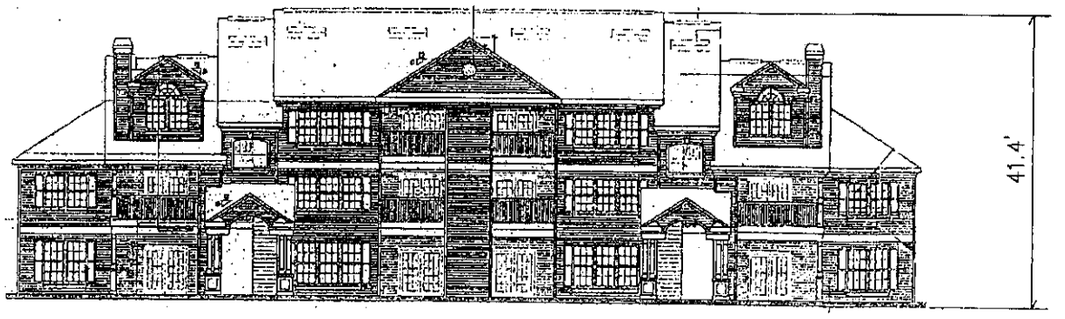
SHEET NAME:
TYPICAL GARAGE STRUCURE PLAN AND DETAIL

SCALE: Scale 1" = 16'
16 8 0 16

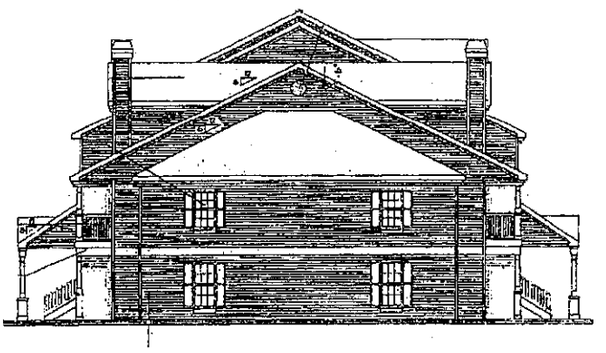
JOB NUMBER: SS 36511

SHEET 46 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Front Elevation



Side Elevation

Building 6

U.S.SURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

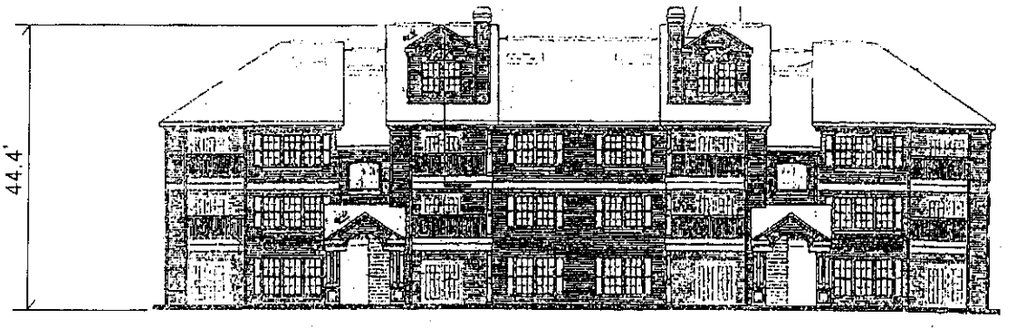
SHEET NAME:
BUILDING ELEVATIONS

SCALE: Not-to-Scale

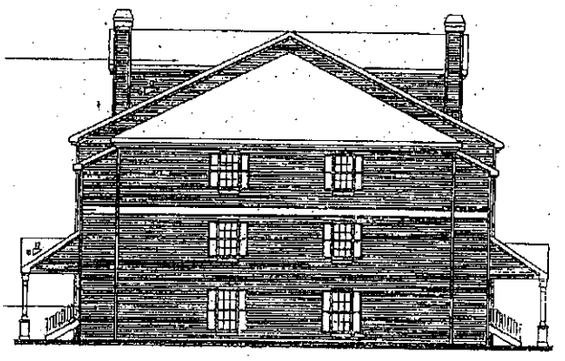
JOB NUMBER: SS 36511

SHEET 47 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Front Elevation



Side Elevation

Buildings 1 & 10

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

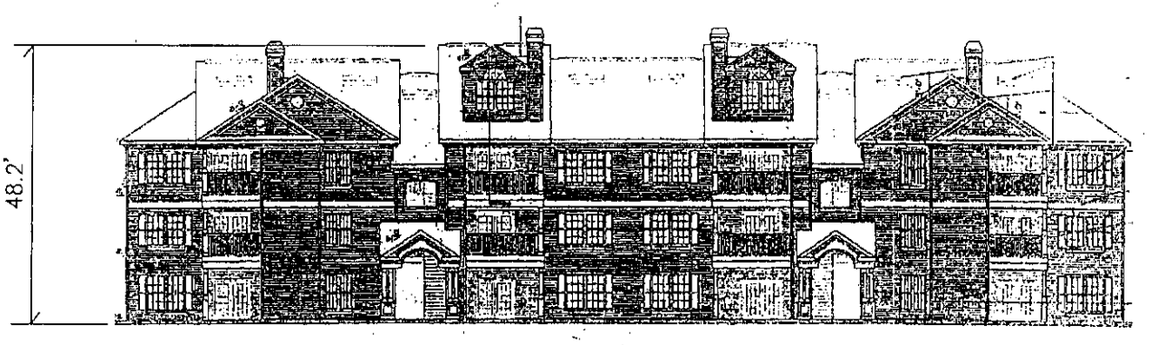
SHEET NAME: BUILDING ELEVATIONS

SCALE: Not to Scale

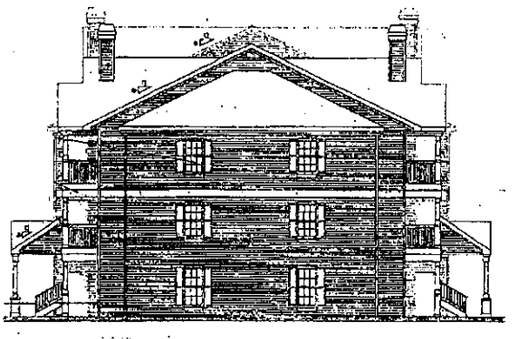
JOB NUMBER: SS 38511

SHEET 48 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Front Elevation



Side Elevation

Buildings 8 & 15

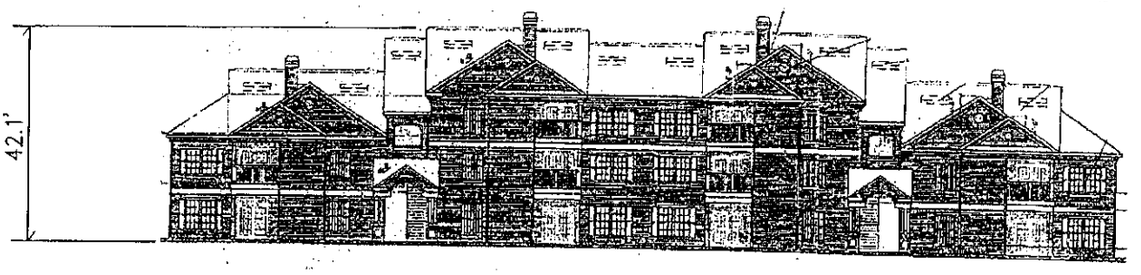
USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4089 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME: BUILDING ELEVATIONS

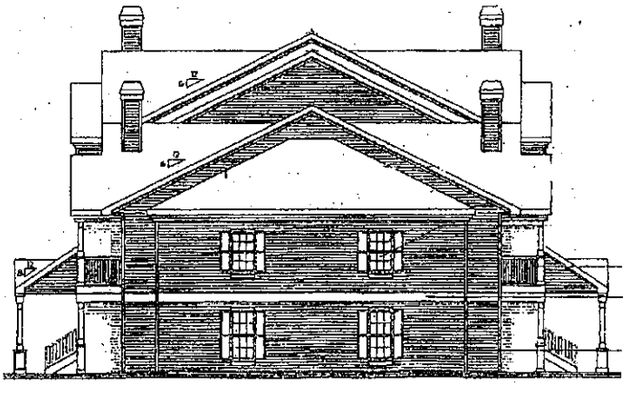
SCALE: Not to Scale

JOB NUMBER: SS 36511

SHEET 49 OF 56



Front Elevation



Side Elevation

Buildings 2, 3, 5, 11, 12 & 13

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4080 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME: BUILDING ELEVATIONS

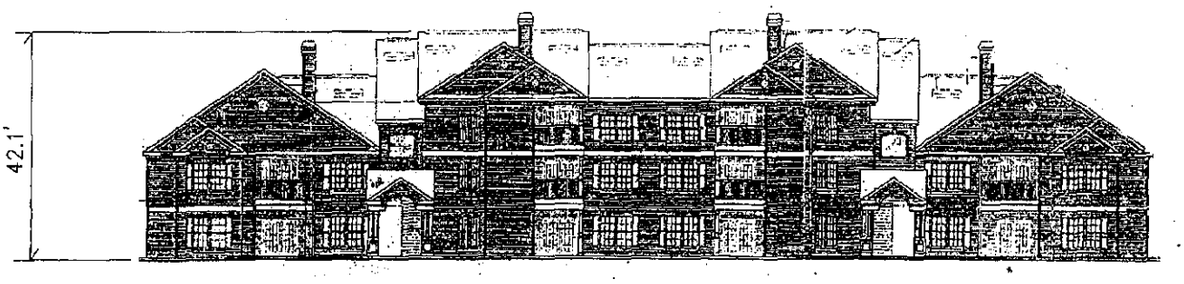
SCALE: Not to Scale

JOB NUMBER: SS 36511

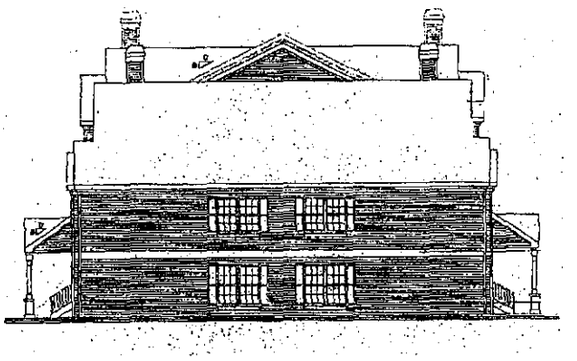
SHEET 50 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Front Elevation



Side Elevation

Building 14

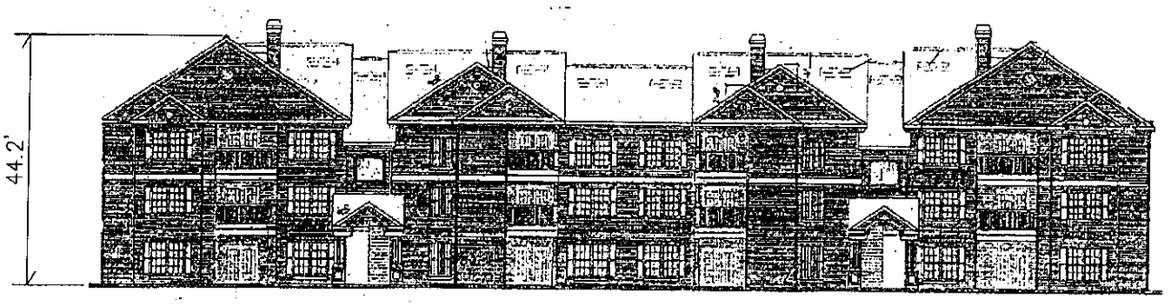
USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4029 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING ELEVATIONS

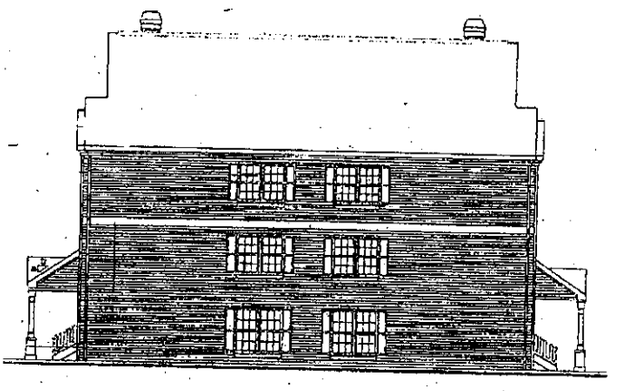
SCALE: Not to Scale

JOB NUMBER: SS 35511

SHEET 51 OF 56



Front Elevation



Side Elevation

Buildings 7 & 9

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTS DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

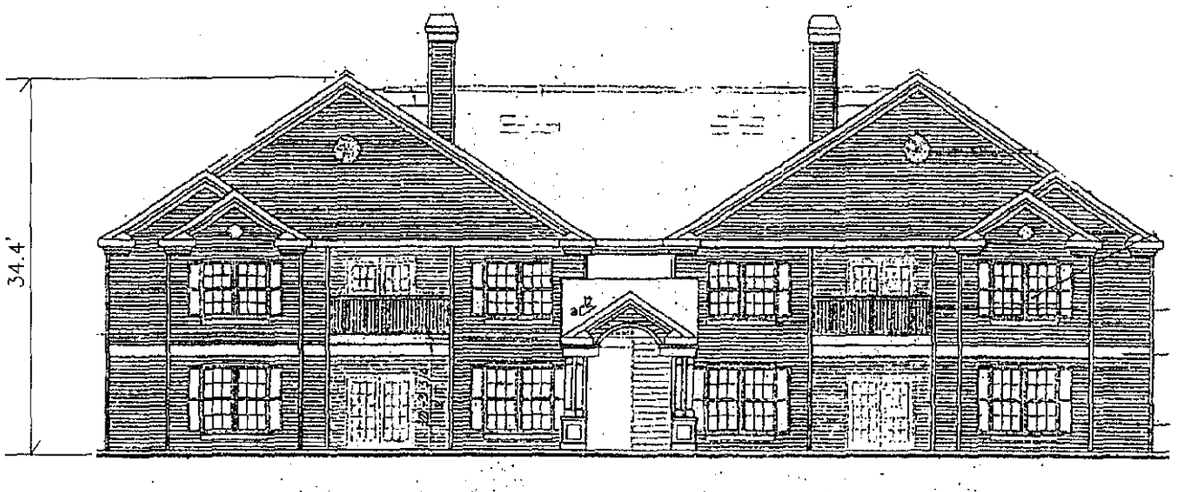
SHEET NAME: BUILDING ELEVATIONS

SCALE: Not to Scale

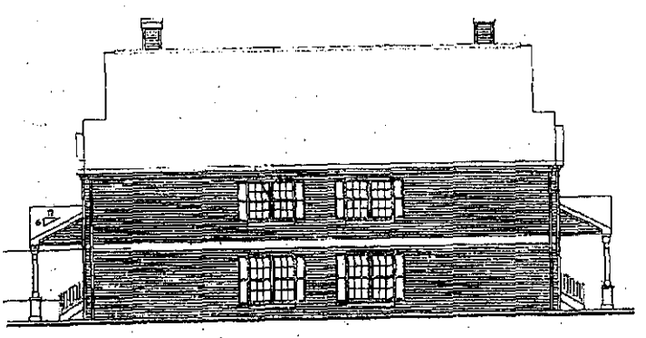
JOB NUMBER: SS 36511

SHEET 52 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Front Elevation



Side Elevation

Buildings 4 & 16

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4830 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800-TO SURVEY

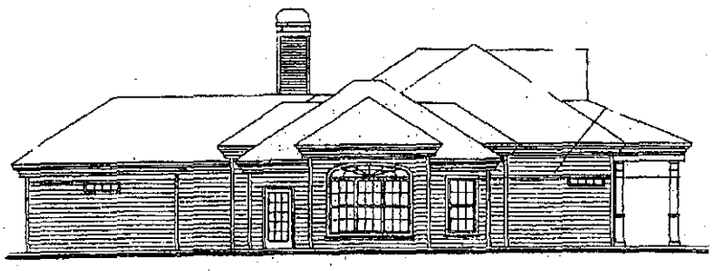
SHEET NAME: BUILDING ELEVATIONS

SCALE: Not to Scale

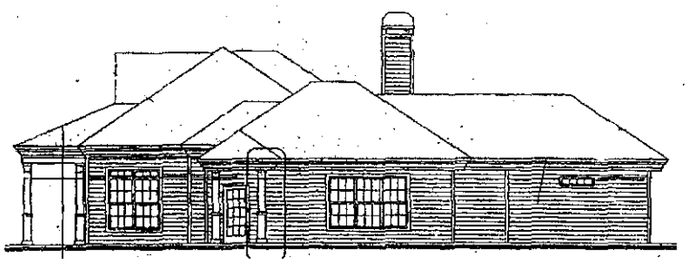
JOB NUMBER: SS 36511

SHEET 53 OF 56

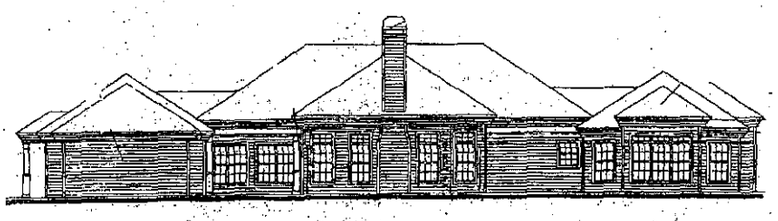
ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



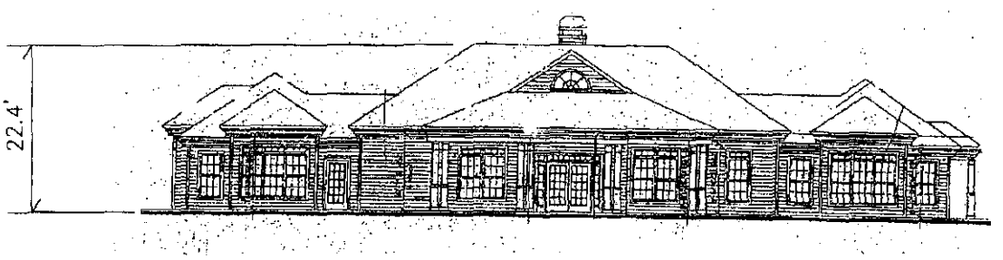
Club House Left Side Elevation



Club House Right Side Elevation



Club House Rear Elevation



Club House Front Elevation

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4039 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING ELEVATIONS

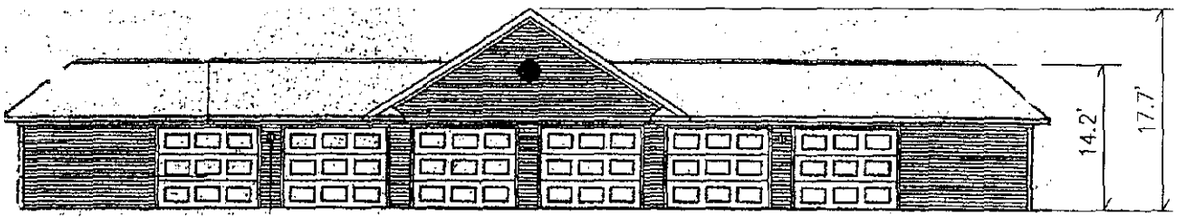
SCALE: Not to Scale

JOB NUMBER: SS 38511

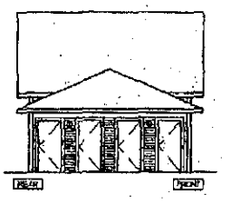
SHEET 54 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



Garage Front Elevation



Garage Side Elevation

Garage Structures B, C, D, E and F

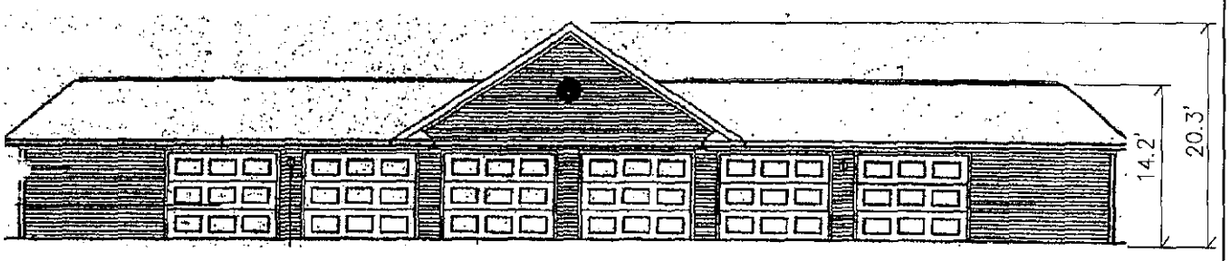
USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4820 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME:
BUILDING ELEVATIONS

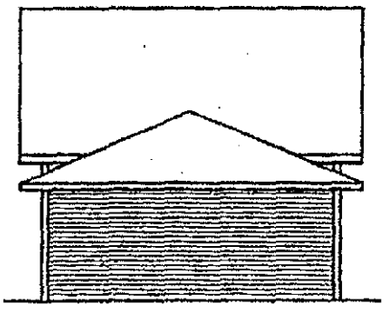
SCALE: Not to Scale

JOB NUMBER: SS 36511

SHEET 55 OF 56



Garage Front Elevation



Garage Side Elevation

Garage Structure A

USSURVEY@USSURVEYOR.COM
U.S. SURVEYOR®
4929 RIVERWIND POINTE DRIVE
EVANSVILLE, INDIANA 47715
1-800- TO SURVEY

SHEET NAME: BUILDING ELEVATIONS

SCALE: Not to Scale

JOB NUMBER: SS 38511

SHEET 56 OF 56

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "D": PERCENTAGE INTERESTS: UNITS

BLDG/UNIT		TYPE	VALUE	% INTEREST (OF 100% CUMULATIVE)
1	101	A1	1.0	0.19873
1	102	A2	1.15	0.22854
1	103	A1	1.0	0.19873
1	104	A2	1.15	0.22854
1	105	A2	1.15	0.22854
1	106	A1	1.0	0.19873
1	107	A2	1.15	0.22854
1	108	A1	1.0	0.19873
1	109	A1	1.0	0.19873
1	110	A2	1.15	0.22854
1	111	A1	1.0	0.19873
1	112	A2	1.15	0.22854
1	113	A2	1.15	0.22854
1	114	A1	1.0	0.19873
1	115	A2	1.15	0.22854
1	116	A1	1.0	0.19873
1	117	A1	1.0	0.19873
1	118	A2LOFT	1.4	0.27822
1	119	A1	1.0	0.19873
1	120	A2LOFT	1.4	0.27822
1	121	A2LOFT	1.4	0.27822
1	122	A1	1.0	0.19873
1	123	A2LOFT	1.4	0.27822
1	124	A1	1.0	0.19873
2	201	B1	1.65	0.32790
2	202	B1	1.65	0.32790
2	203	B1	1.65	0.32790
2	204	B1	1.65	0.32790
2	205	B1	1.65	0.32790
2	206	B1	1.65	0.32790
2	207	B1	1.65	0.32790
2	208	B1	1.65	0.32790
2	209	B1	1.65	0.32790
2	210	B1	1.65	0.32790
2	211	B1	1.65	0.32790
2	212	B1	1.65	0.32790
2	213	B1	1.65	0.32790
2	214	B1	1.65	0.32790
2	215	B1	1.65	0.32790
2	216	B1	1.65	0.32790
2	217	B1	1.65	0.32790
2	218	B1	1.65	0.32790
2	219	B1	1.65	0.32790
2	220	B1	1.65	0.32790
3	301	B1	1.65	0.32790
3	302	B1	1.65	0.32790
3	303	B1	1.65	0.32790
3	304	B1	1.65	0.32790
3	305	B1	1.65	0.32790
3	306	B1	1.65	0.32790
3	307	B1	1.65	0.32790
3	308	B1	1.65	0.32790
3	309	B1	1.65	0.32790
3	310	B1	1.65	0.32790
3	311	B1	1.65	0.32790
3	312	B1	1.65	0.32790
3	313	B1	1.65	0.32790
3	314	B1	1.65	0.32790
3	315	B1	1.65	0.32790

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

	BLDG/UNIT	TYPE	VALUE	% INTEREST (OF 100% CUMULATIVE)
3	316	B1	1.65	0.32790
3	317	B1	1.65	0.32790
3	318	B1	1.65	0.32790
3	319	B1	1.65	0.32790
3	320	B1	1.65	0.32790
4	401	C1	2.1	0.41733
4	402	C1	2.1	0.41733
4	403	C1	2.1	0.41733
4	404	C1	2.1	0.41733
4	405	C1	2.1	0.41733
4	406	C1	2.1	0.41733
4	407	C1	2.1	0.41733
4	408	C1	2.1	0.41733
5	501	B1	1.65	0.32790
5	502	B1	1.65	0.32790
5	503	B1	1.65	0.32790
5	504	B1	1.65	0.32790
5	505	B1	1.65	0.32790
5	506	B1	1.65	0.32790
5	507	B1	1.65	0.32790
5	508	B1	1.65	0.32790
5	509	B1	1.65	0.32790
5	510	B1	1.65	0.32790
5	511	B1	1.65	0.32790
5	512	B1	1.65	0.32790
5	513	B1	1.65	0.32790
5	514	B1	1.65	0.32790
5	515	B1	1.65	0.32790
5	516	B1	1.65	0.32790
5	517	B1	1.65	0.32790
5	518	B1	1.65	0.32790
5	519	B1	1.65	0.32790
5	520	B1	1.65	0.32790
6	601	A2	1.15	0.22854
6	602	A1	1.0	0.19873
6	603	A2	1.15	0.22854
6	604	A1	1.0	0.19873
6	605	A1	1.0	0.19873
6	606	A2	1.15	0.22854
6	607	A1	1.0	0.19873
6	608	A2	1.15	0.22854
6	609	A2LOFT	1.4	0.27822
6	610	A1	1.0	0.19873
6	611	A2LOFT	1.4	0.27822
6	612	A1	1.0	0.19873
6	613	A1	1.0	0.19873
6	614	A2LOFT	1.4	0.27822
6	615	A1	1.0	0.19873
6	616	A2LOFT	1.4	0.27822
6	617	A1	1.0	0.19873
6	618	A1	1.0	0.19873
6	619	A1	1.0	0.19873
6	620	A1	1.0	0.19873
7	701	C1	2.1	0.41733
7	702	B1	1.65	0.32790
7	703	C1	2.1	0.41733
7	704	B1	1.65	0.32790
7	705	B1	1.65	0.32790
7	706	C1	2.1	0.41733
7	707	B1	1.65	0.32790
7	708	C1	2.1	0.41733
7	709	C1	2.1	0.41733

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BLDG/UNIT		TYPE	VALUE	% INTEREST (OF 100% CUMULATIVE)
7	710	B1	1.65	0.32790
7	711	C1	2.1	0.41733
7	712	B1	1.65	0.32790
7	713	B1	1.65	0.32790
7	714	C1	2.1	0.41733
7	715	B1	1.65	0.32790
7	716	C1	2.1	0.41733
7	717	C1	2.1	0.41733
7	718	B1	1.65	0.32790
7	719	C1	2.1	0.41733
7	720	B1	1.65	0.32790
7	721	B1	1.65	0.32790
7	722	C1	2.1	0.41733
7	723	B1	1.65	0.32790
7	724	C1	2.1	0.41733
8	801	B1	1.65	0.32790
8	802	A2	1.15	0.22854
8	803	B1	1.65	0.32790
8	804	A2	1.15	0.22854
8	805	A2	1.15	0.22854
8	806	B1	1.65	0.32790
8	807	A2	1.15	0.22854
8	808	B1	1.65	0.32790
8	809	B1	1.65	0.32790
8	810	A2	1.15	0.22854
8	811	B1	1.65	0.32790
8	812	A2	1.15	0.22854
8	813	A2	1.15	0.22854
8	814	B1	1.65	0.32790
8	815	A2	1.15	0.22854
8	816	B1	1.65	0.32790
8	817	B1	1.65	0.32790
8	818	A2LOFT	1.4	0.27822
8	819	B1	1.65	0.32790
8	820	A2LOFT	1.4	0.27822
8	821	A2LOFT	1.4	0.27822
8	822	B1	1.65	0.32790
8	823	A2LOFT	1.4	0.27822
8	824	B1	1.65	0.32790
9	901	C1	2.1	0.41733
9	902	B1	1.65	0.32790
9	903	C1	2.1	0.41733
9	904	B1	1.65	0.32790
9	905	B1	1.65	0.32790
9	906	C1	2.1	0.41733
9	907	B1	1.65	0.32790
9	908	C1	2.1	0.41733
9	909	C1	2.1	0.41733
9	910	B1	1.65	0.32790
9	911	C1	2.1	0.41733
9	912	B1	1.65	0.32790
9	913	B1	1.65	0.32790
9	914	C1	2.1	0.41733
9	915	B1	1.65	0.32790
9	916	C1	2.1	0.41733
9	917	C1	2.1	0.41733
9	918	B1	1.65	0.32790
9	919	C1	2.1	0.41733
9	920	B1	1.65	0.32790
9	921	B1	1.65	0.32790
9	922	C1	2.1	0.41733
9	923	B1	1.65	0.32790
9	924	C1	2.1	0.41733

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BLDG/UNIT		TYPE	VALUE	% INTEREST (OF 100% CUMULATIVE)
10	1001	A1	1.0	0.19873
10	1002	A2	1.15	0.22854
10	1003	A1	1.0	0.19873
10	1004	A2	1.15	0.22854
10	1005	A2	1.15	0.22854
10	1006	A1	1.0	0.19873
10	1007	A2	1.15	0.22854
10	1008	A1	1.0	0.19873
10	1009	A1	1.0	0.19873
10	1010	A2	1.15	0.22854
10	1011	A1	1.0	0.19873
10	1012	A2	1.15	0.22854
10	1013	A2	1.15	0.22854
10	1014	A1	1.0	0.19873
10	1015	A2	1.15	0.22854
10	1016	A1	1.0	0.19873
10	1017	A1	1.0	0.19873
10	1018	A2LOFT	1.4	0.27822
10	1019	A1	1.0	0.19873
10	1020	A2LOFT	1.4	0.27822
10	1021	A2LOFT	1.4	0.27822
10	1022	A1	1.0	0.19873
10	1023	A2LOFT	1.4	0.27822
10	1024	A1	1.0	0.19873
11	1101	B1	1.65	0.32790
11	1102	B1	1.65	0.32790
11	1103	B1	1.65	0.32790
11	1104	B1	1.65	0.32790
11	1105	B1	1.65	0.32790
11	1106	B1	1.65	0.32790
11	1107	B1	1.65	0.32790
11	1108	B1	1.65	0.32790
11	1109	B1	1.65	0.32790
11	1110	B1	1.65	0.32790
11	1111	B1	1.65	0.32790
11	1112	B1	1.65	0.32790
11	1113	B1	1.65	0.32790
11	1114	B1	1.65	0.32790
11	1115	B1	1.65	0.32790
11	1116	B1	1.65	0.32790
11	1117	B1	1.65	0.32790
11	1118	B1	1.65	0.32790
11	1119	B1	1.65	0.32790
11	1120	B1	1.65	0.32790
12	1201	B1	1.65	0.32790
12	1202	B1	1.65	0.32790
12	1203	B1	1.65	0.32790
12	1204	B1	1.65	0.32790
12	1205	B1	1.65	0.32790
12	1206	B1	1.65	0.32790
12	1207	B1	1.65	0.32790
12	1208	B1	1.65	0.32790
12	1209	B1	1.65	0.32790
12	1210	B1	1.65	0.32790
12	1211	B1	1.65	0.32790
12	1212	B1	1.65	0.32790
12	1213	B1	1.65	0.32790
12	1214	B1	1.65	0.32790
12	1215	B1	1.65	0.32790
12	1216	B1	1.65	0.32790
12	1217	B1	1.65	0.32790
12	1218	B1	1.65	0.32790
12	1219	B1	1.65	0.32790

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BLDG/UNIT		TYPE	VALUE	% INTEREST (OF 100% CUMULATIVE)
12	1220	B1	1.65	0.32790
13	1301	B1	1.65	0.32790
13	1302	B1	1.65	0.32790
13	1303	B1	1.65	0.32790
13	1304	B1	1.65	0.32790
13	1305	B1	1.65	0.32790
13	1306	B1	1.65	0.32790
13	1307	B1	1.65	0.32790
13	1308	B1	1.65	0.32790
13	1309	B1	1.65	0.32790
13	1310	B1	1.65	0.32790
13	1311	B1	1.65	0.32790
13	1312	B1	1.65	0.32790
13	1313	B1	1.65	0.32790
13	1314	B1	1.65	0.32790
13	1315	B1	1.65	0.32790
13	1316	B1	1.65	0.32790
13	1317	B1	1.65	0.32790
13	1318	B1	1.65	0.32790
13	1319	B1	1.65	0.32790
13	1320	B1	1.65	0.32790
14	1401	C1	2.1	0.41733
14	1402	B1	1.65	0.32790
14	1403	C1	2.1	0.41733
14	1404	B1	1.65	0.32790
14	1405	B1	1.65	0.32790
14	1406	C1	2.1	0.41733
14	1407	B1	1.65	0.32790
14	1408	C1	2.1	0.41733
14	1409	C1	2.1	0.41733
14	1410	B1	1.65	0.32790
14	1411	C1	2.1	0.41733
14	1412	B1	1.65	0.32790
14	1413	B1	1.65	0.32790
14	1414	C1	2.1	0.41733
14	1415	B1	1.65	0.32790
14	1416	C1	2.1	0.41733
14	1417	B1	1.65	0.32790
14	1418	B1	1.65	0.32790
14	1419	B1	1.65	0.32790
14	1420	B1	1.65	0.32790
15	1501	B1	1.65	0.32790
15	1502	A2	1.15	0.22854
15	1503	B1	1.65	0.32790
15	1504	A2	1.15	0.22854
15	1505	A2	1.15	0.22854
15	1506	B1	1.65	0.32790
15	1507	A2	1.15	0.22854
15	1508	B1	1.65	0.32790
15	1509	B1	1.65	0.32790
15	1510	A2	1.15	0.22854
15	1511	B1	1.65	0.32790
15	1512	A2	1.15	0.22854
15	1513	A2	1.15	0.22854
15	1514	B1	1.65	0.32790
15	1515	A2	1.15	0.22854
15	1516	B1	1.65	0.32790
15	1517	B1	1.65	0.32790
15	1518	A2LOFT	1.4	0.27822
15	1519	B1	1.65	0.32790

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BLDG/UNIT		TYPE	VALUE	% INTEREST (OF 100% CUMULATIVE)
15	1520	A2LOFT	1.4	0.27822
15	1521	A2LOFT	1.4	0.27822
15	1522	B1	1.65	0.32790
15	1523	A2LOFT	1.4	0.27822
15	1524	B1	1.65	
16	1601	C1	2.1	0.41733
16	1602	C1	2.1	0.41733
16	1603	C1	2.1	0.41733
16	1604	C1	2.1	0.41733
16	1605	C1	2.1	0.41733
16	1606	C1	2.1	0.41733
16	1607	C1	2.1	0.41733
16	1608	C1	2.1	0.41733

TOTAL A1 UNITS:
36

A1 UNIT VALUE:
1.0 per Unit

TOTAL VALUE A1 UNITS:
36 x 1.0 = 36.0

TOTAL A2 UNITS:
36

A2 UNIT VALUE:
1.14675 per Unit

TOTAL VALUE A2 UNITS:
36 X 1.15 = 41.283

TOTAL A2 LOFT UNITS:
20

A2 LOFT UNIT VALUE:
1.4917 per Unit

TOTAL VALUE A2 LOFT UNITS:
20 X 1.4 X = 29.834

TOTAL B1 UNITS:
180

B1 UNIT VALUE:
1.65154 per Unit

TOTAL VALUE B1 UNITS:
180 X 1.65 = 297.277

TOTAL C1 UNITS:
48

C1 UNIT VALUE:
2.07463 per Unit

TOTAL VALUE C1 UNITS:
48 X 2.1 = 99.582

TOTAL UNITS: 320

TOTAL VALUE ALL UNITS:
503.976

% INTEREST BY UNIT TYPE:

A1: 0.1983%
A2: 0.2274%
A2 LOFT: 0.2958%
B1: 0.3275%
C1: 0.4114%

ALL % INTEREST BY UNIT TYPE:

TOTAL A1: 7.1432%
TOTAL A2: 8.1915%
TOTAL A2 LOFT: 5.917%
TOTAL B1: 58.9863%
TOTAL C1: 19.7593%

TOTAL % INTEREST: 100%

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "D-1": PERCENTAGE INTERESTS: GARAGE UNITS

(Note:"S" means Storage space. "M" means Maintenance space (to be conveyed to Association as a Common Element)."G" means Garage space.)

GARAGE BUILDING	SPACE NUMBER	TYPE AND VALUE	% INTEREST (OF 100% CUMULATIVE)
A	1	S-1.0	0.5405 %
A	2	S-1.0	0.5405 %
A	3	S-1.0	0.5405 %
A	4	S-1.0	0.5405 %
A	A1	G-4.0	2.16216 %
A	A2	G-4.0	2.16216 %
A	A3	G-4.0	2.16216 %
A	A4	G-4.0	2.16216 %
A	A5	G-4.0	2.16216 %
A	A6	G-4.0	2.16216 %
B	1	S-1.0	0.5405 %
B	2	S-1.0	0.5405 %
B	3	S-1.0	0.5405 %
B	4	S-1.0	0.5405 %
B	5	S-1.0	0.5405 %
B	6	S-1.0	0.5405 %
B	7	S-1.0	0.5405 %
B	8	S-1.0	0.5405 %
B	B1	G-4.0	2.16216 %
B	B2	G-4.0	2.16216 %
B	B3	G-4.0	2.16216 %
B	B4	G-4.0	2.16216 %
B	B5	G-4.0	2.16216 %
B	M1	M-1.0	0.5405 %
C	1	S-1.0	0.5405 %
C	2	S-1.0	0.5405 %
C	3	S-1.0	0.5405 %
C	4	S-1.0	0.5405 %
C	5	S-1.0	0.5405 %
C	6	S-1.0	0.5405 %
C	7	S-1.0	0.5405 %
C	8	S-1.0	0.5405 %
C	C1	G-4.0	2.16216 %
C	C2	G-4.0	2.16216 %
C	C4	G-4.0	2.16216 %
C	C4	G-4.0	2.16216 %
C	C5	G-4.0	2.16216 %
C	C6	G-4.0	2.16216 %

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

GARAGE BUILDING	SPACE NUMBER	TYPE AND VALUE	% INTEREST (OF 100% CUMULATIVE)
D	1	S-1.0	0.5405 %
D	2	S-1.0	0.5405 %
D	3	S-1.0	0.5405 %
D	4	S-1.0	0.5405 %
D	5	S-1.0	0.5405 %
D	6	S-1.0	0.5405 %
D	7	S-1.0	0.5405 %
D	8	S-1.0	0.5405 %
D	D1	G-4.0	2.16216 %
D	D2	G-4.0	2.16216 %
D	D4	G-4.0	2.16216 %
D	D4	G-4.0	2.16216 %
D	D5	G-4.0	2.16216 %
D	D6	G-4.0	2.16216 %
E	1	S-1.0	0.5405 %
E	2	S-1.0	0.5405 %
E	3	S-1.0	0.5405 %
E	4	S-1.0	0.5405 %
E	5	S-1.0	0.5405 %
E	6	S-1.0	0.5405 %
E	7	S-1.0	0.5405 %
E	8	S-1.0	0.5405 %
E	E1	G-4.0	2.16216 %
E	E2	G-4.0	2.16216 %
E	E4	G-4.0	2.16216 %
E	E4	G-4.0	2.16216 %
E	E5	G-4.0	2.16216 %
E	E6	G-4.0	2.16216 %
F	1	S-1.0	0.5405 %
F	2	S-1.0	0.5405 %
F	3	S-1.0	0.5405 %
F	4	S-1.0	0.5405 %
F	5	S-1.0	0.5405 %
F	6	S-1.0	0.5405 %
F	7	S-1.0	0.5405 %
F	8	S-1.0	0.5405 %
F	F1	G-4.0	2.16216 %
F	F2	G-4.0	2.16216 %
F	F4	G-4.0	2.16216 %
F	F4	G-4.0	2.16216 %
F	F5	G-4.0	2.16216 %
F	F6	G-4.0	2.16216 %
Total Units:		**Value All Units:**	
80		**185**	**100%**

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "D-1": PERCENTAGE INTERESTS: GARAGE UNITS (CONTINUED)

TOTAL "S" (Storage or Maintenance) UNITS: 45	**TOTAL "S" UNIT VALUE: 45 x 1.0 Value per Unit = 45.0**	**PERCENTAGE INTEREST OF ONE "S" UNIT = 1.0/185 = 0.54054% TOTAL "S" UNITS: 45 X 0.5405% = 24.3243%**
TOTAL "V" (Vehicle Use) UNITS: 35	**TOTAL "V" UNIT VALUE: 35 x 4.0 Value per Unit = 140.0**	**PERCENTAGE INTEREST OF ONE "V" UNIT = 4.0/185 = 2.16216% TOTAL "S" UNITS: 35 X 2.16216% = 75.6756**
TOTAL UNITS: 80	**TOTAL VALUE ALL UNITS: 185.0**	**TOTAL % INTEREST: 100%**

Westbury Record on Appeal 0421

EXHIBIT "E": ARCHITECT OR ENGINEER'S CERTIFICATION

In accordance with the requirements of SC Code Section 27-31-110, the certification of Barrett Surveying Group, by R. Scott Barrett, South Carolina Registered Surveyor 23203, is shown on the Plans set forth in Exhibit C of the Master Deed for The Estate at Westbury Horizontal Property Regime. I certify that such plans graphically show the dimensions, area and location of each Unit therein and the dimensions, area and location of Common Elements affording access to each Unit therein, within normal construction and plan tolerances.

MRB 1-23-20

Mark R. Binsz, P.E.
SC Registration No. 16178

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "F": RULES AND REGULATIONS

THE ESTATE AT WESTBURY HORIZONTAL PROPERTY REGIME

In order to create a congenial, pleasant, safe and dignified living atmosphere that is respectful of the concerns of Owners of Units, these Rules and Regulations have been adopted. These Rules and Regulations supplement the Master Deed of the Regime and the Bylaws of the Association. They apply to Owners and their families, tenants, guests, agents, invitees, contractors, and employees.

1. Residential and Business Usage.

A. Units shall be utilized for single family residential purposes only. No business or business activity shall be carried on in any Unit or Garage Unit at any time; provided, however, that, to the extent allowed by applicable zoning laws, private business activities may be conducted in a Unit as long as such use is incidental to the primary residential use of the Unit and does not violate any applicable law, involve any exterior signage or advertising of the Unit as a place of business, require frequent visits by clients or business associates to the Property, or unduly contribute to parking, traffic, telecommunications or security problems for the Property, all in the sole opinion of the Board of Directors.

B. The provisions in (A) above shall not preclude (i) such business activity of the Association or any Management Agent as is reasonably required for the effective operation of the Property and the Association, (ii) with the written permission of the Board of Directors of the Association, use, rental or leasing of any Units or Common Elements for such lawful purposes as leasing or sale of Units, Association administration, storage, or other activities determined by the Board of Directors to be beneficial to the Association or the Owners; (iii) showing of any Unit or Garage Unit for sale or permitted leasing purposes during normal business hours and in accordance with any procedures established by the Board of Directors to preserve a congenial, pleasant, safe and dignified living atmosphere, or (iv) business operations of the Declarant, its agents, successors, assigns or designees during the period of constructing, renovating, marketing or managing the Property, including, without limitation, leasing, sales, administration, storage, or similar activities.

C. The Board of Directors of the Association may lease, on such terms as it shall determine are appropriate, a reasonable part of the Common Elements, such as a part of the Clubhouse, to a licensed real estate brokerage firm to assist Owners in the leasing or sale of their Units or Garage Unit. Such lease shall be for a period not exceeding three (3) years but may contain provisions for multiple extensions for periods not to exceed one (1) year at a time. The lease shall require that (a) the brokerage firm be a member of the Multiple Listing Service (or a similar organization that provides an opportunity for other participating brokerage firms to participate in sales), (b) the Association shall be indemnified by the brokerage firm against any claims against the Association resulting from any activities of the brokerage firm that do not comply with applicable law or regulations, (c) the brokerage firm shall not represent that it is the sole broker authorized to sell or lease Units, and (d) commissions shall be determined solely by the brokerage firm and the Owner of the Unit or Garage Unit to be sold or leased, but the commissions proposed by the brokerage firm shall not exceed those commonly charged for similar services in the Charleston area.

2. Timesharing and Rentals:

Pursuant to Section 10.3 of the Master Deed, in order to alleviate problems of security and disruption associated with frequent changes in occupancy, Units shall not (a) be divided into or operated as "timeshares" or interval ownership segments or (b) be leased or rented for periods less than one hundred eighty (180) consecutive days. If leased or rented, the Unit Owner shall ensure that Occupants of the Units understand and fully comply with the provisions of this Master Deed and these Rules and Regulations. If rented or leased, the Unit Owner shall notify the Management Agent or such other entity as the Board of Directors shall determine, in writing, in advance of occupancy, of the name(s), home address(es), and home telephone number of the renter(s) or lessee(s). If requested by the Management Agent or the Board of Directors, the

Westbury Record on Appeal 0423

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

renting or leasing Owner shall provide evidence reasonably satisfactory to the requesting entity to confirm the term of rental or lease.

3. Use of Owners' Terraces and Other Common Elements.
Any Owner wishing to use any Common Elements for a private event shall comply with such additional specific rules or conditions as may be determined by the Board of Directors or the Management Agent. These rules may include fees or deposits for costs of staff, cleanup, utilities, damages, etc. In order to reduce safety and noise concerns, unless otherwise expressly determined by the Board of Directors or the Management Agent, use of Common Elements for private events is limited to the hours of 8:00 A. M. to midnight. Persons less than eighteen (18) years of age must be accompanied by a person who is eighteen (18) years of age or older. Access for personal guests or invitees of a Unit Owner must be authorized by a Unit Owner or Occupant who is eighteen (18) years of age or older.

4. Prohibited Uses.
The Owner and Occupants of a Unit or Garage Unit shall not permit or suffer anything to be done on the Property that will, in the sole reasonable opinion of the Board of Directors or Management Agent, (i) increase the insurance rates on the Unit, or Garage Unit, Common Elements or Garage Common Elements over those rates that would reasonably be anticipated from use of the Unit for its normal purposes, (ii) obstruct or interfere with the rights of other Unit Owners or the Association, (iii) violate any law, permit or regulation of a governmental body.

5. Owner Responsible for Conduct of Others in Unit.
Each Unit Owner shall be deemed responsible to the Association for the results of the actions or omissions of Occupants of the Unit and their agents, invitees, guests, and pets while on the Property, but the responsibility of the Unit Owner shall not relieve any Occupant of the Unit or their agents, invitees, or guests from any liability to the Association or any other Person for their acts.

6. Access to the Property.
Access for personal guests or invitees to the Unit of a Unit Owner may be authorized by the Unit Owner and Occupants of the Unit who are sixteen (16) years of age or older. Personal guests and invitees may not authorize access for others unless given approval to do so by the Board of Directors or the Management Agent. Only persons with proper authorization may remain on the Property. The Management Agent may establish additional check-in or sign-in procedures and time limits for vendors, suppliers, repair and service personnel, etc. Upon request of the Management Agent or its employee, an Association employee, a law enforcement official, security personnel retained by the Association, or any Unit Owner or Occupant who is eighteen (18) years of age or older, a person on the Property shall provide proper identification and, if purportedly an authorized guest or invitee, shall provide the name, Unit number and telephone number of the person who authorized access for the person.

7. Pets.
No animals, livestock, reptiles, fowl or poultry shall be raised, bred or kept on the Property, except that dogs, cats or other non-exotic household pets, cumulatively totaling not more than three (3), may be kept, provided that they are not kept, bred or maintained for commercial purposes and are housed within the Unit. Such household pets must not constitute a nuisance or cause unsanitary conditions. Frequent or continuing barking or howling of a dog or any other frequent or continuing noise caused by a pet that is clearly audible in another Unit shall be a nuisance. Pets shall not be allowed on Common Elements (other than Limited Common Elements serving only the Unit in which the pet is kept) unless the pet acts in a non-threatening way to other persons and is under leash or is carried by a responsible person. No pet shall be permitted to leave its excrement on Common Elements other than any Common Elements expressly authorized by the Board of Directors, and the owner of such pet shall cause such excrement to be immediately removed. The Board of Directors shall have the right to determine, in its sole discretion, whether a particular pet meets the criteria set forth above, and, if not, it may require the owner or keeper of the pet to remove such pet from the Property.

Westbury Record on Appeal 0424

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

8. Offensive Activities.

Noxious, offensive or illegal activities shall not be carried out on the Property, nor shall anything be done thereon that reasonably is an annoyance or nuisance to the Occupants of other Units or persons properly using the Common Elements. Without limiting the generality of this provision, the following shall not be permitted on the Property: (a) speakers, horns, whistles, bells or other devices that emit sounds that are clearly audible in other Units or the Common Elements (other than Limited Common Elements serving only the Unit in which they are located), except security and fire alarm devices or other devices expressly approved in writing by the Board of Directors, or (b) unusually bright, flashing or pulsating lights that are visible from another Unit or the Common Elements (other than Limited Common Elements serving only the Unit in which they are located).

9. Signs, Mail Receptacles and Window Treatments.

Unless otherwise expressly permitted in writing by the Board of Directors or the Management Agent, an Owner shall place no sign, advertisement or notice on the Property other than inside such Owner's Unit (in which case the sign, advertisement or notice shall not be visible outside the Unit), or within Common Elements reserved by the Board of Directors for such purposes, in which case the sign, advertisement or notice shall comply with any procedures or criteria approved by the Board of Directors. This provision shall not apply to any signage that is part of the original construction of the Property or any replacement therefor that is substantially the same as the original signage. The Board of Directors shall have the right to issue specifications for and/or approve as to location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similar delivered materials; property identification markers; and name signs. The Board of Directors shall also have the right to issue specifications for and/or approve any window treatments (e.g. shades, blinds, draperies, shutters, etc.) that are visible outside a Unit.

10. Antennas and Telecommunications Equipment.

Unless otherwise expressly permitted in writing by the Board of Directors or the Management Agent, no television, radio or other telecommunications antenna, aerial, component or dish shall be erected on a Unit, Garage Unit, Common Elements or Garage Common Elements in a manner that causes it to be visible under normal use conditions from another Unit or the Common Elements (other than Limited Common Elements serving only the Unit in which it is located). No telecommunications equipment installed on the Property after completion of construction shall unreasonably interfere with the operation of normal telephone, television or other telecommunications systems for other Units, as determined by the Board of Directors.

11. Approval of Modifications.

(1) Unless otherwise expressly permitted in writing by the Board of Directors (or its authorized designee, such as an architectural review committee), no painting, decoration, attachment to, or modification of a Unit, Garage Unit, Common Elements or Garage Common Elements that would be visible from any other Unit or any portion of the Common Elements (other than Limited Common Elements serving only the Unit in which it is located), no modification of the Common Elements or Garage Common Elements (including Limited Common Elements), and no modification of the structural, mechanical, electrical or plumbing systems of a Unit or Garage Unit shall be permitted until two (2) sets of plans showing the nature, shape, dimensions, materials, color and location thereof have been submitted to and approved by the Board of Directors (or its authorized designee). Approval shall not be required for replacement of a mechanical, electrical or plumbing component within a Unit or Garage Unit by a component of equal or better quality that is compatible with other systems in the Unit and the Building and complies with applicable codes.

Westbury Record on Appeal 0425

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(2) The Board of Directors (or its authorized designee) may determine that certain attachments to a Unit, Garage Unit, or any portion of the Common Elements or Garage Common Elements, such as, without limitation, balcony ceiling fans and exterior lights, must be uniform in appearance and location in order to preserve the visual harmony of the community.

(3) The Board of Directors (or its authorized designee) shall have three (3) calendar weeks from receipt of all required information to review the submitted information. It may approve, reject or modify the proposed plans based on its perception of the consistency and harmony of the plans with the Master Deed, the original structure, and other practical and aesthetic factors deemed appropriate by the Board of Directors or its authorized designee. If notice of approval, disapproval, proposed modification or request for additional information is not received by the submitting Owner within such three (3) calendar week period, the plans shall be deemed approved. If the Board of Directors or its authorized designee determines that professional advice is required in order to evaluate the submitted information or to monitor the execution of the proposed modification, it may impose reasonable fees to cover the costs to the Association. Such fees shall payable by the applicant as a pre-condition of such evaluation or modification.

(4) Compliance with the above procedures is not a substitute for compliance with other applicable building, zoning, subdivision and development standards ordinances and codes, or other covenants that may apply to the work. The Board of Directors, its authorized designee, the Association, the Management Agent, and their respective officers, employees and agents shall not be responsible for any defects in any plans or specifications approved by the Board of Directors or its authorized designee, nor for any defects in any work done according to such plans and specifications.

12. Trash.

Trash, garbage or other waste shall be placed in areas designated by the Board of Directors or the Management Agent. Except when moving household garbage or waste to designated disposal or pickup areas, it shall be kept in closed, sanitary containers inside the Unit. Household garbage or waste deposited at designated disposal or pickup areas shall be stored in sealed plastic bags. No trash, garbage or other waste shall be left on decks, terraces, patios or porches or in Common Elements or Garage Common Elements not expressly intended for such storage, such as corridors, steps, and driveways or pathways.

13. Obstruction and Use of Common Elements

Unless otherwise expressly approved in writing by the Board of Directors or Management Agent, (a) corridors, steps, and driveways or pathways for ingress and egress shall be used for no other purpose other than normal transit through them and (b) nothing shall be stored or kept on any part of the Common Elements (including Limited Common Elements). Corridors, steps, and driveways or pathways shall not be used as play areas.

14. Parking.

The Board of Directors may assign on-grade parking spaces not within Parking Structures for the exclusive use of specified Units. Unless expressly approved by the Board of Directors or Management Agent:

(1) Unit Occupants and agents, guests or invitees of Unit Occupants shall not (a) park any vehicle except in the parking space(s) reserved for that Unit, if any, or in parking spaces reserved for overflow Occupant parking, as determined by the Board of Directors, unless expressly permitted by the Owner or tenant of the Unit having the right to park in such parking space, or (b) park in such a manner as to unreasonably impede ready access to another parking space.

(2) The Board of Directors may require that vehicles parked in a parking space (a) register with the Management Agent, (b) display a sticker or permit specified by the Management

Westbury Record on Appeal 0426

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Agent and (c) comply with such other procedures as may be approved by the Board of Directors.

(3) Parking or storage spaces in Garage Structures (and, if on-grade parking spaces are assigned to a specific Unit) shall not be rented or assigned to persons who are not Occupants of Estate at Westbury. If a Unit is rented, parking or storage spaces in Garage Structures or any on-grade parking spaces assigned to such Unit shall not be rented or assigned to persons who are Occupants of Estate at Westbury for periods that exceed the term of rental of the Unit to such Occupant. All such parking space or storage space rentals shall terminate upon conveyance of the Unit to which the parking or storage spaces are assigned. If the Occupants of a Unit do not require use of a parking space assigned to the Unit, and wish to rent or assign the parking space for use by other Occupants, the Owner of such Unit shall notify the Board of Directors or the Management Agent of the name and Unit number of the other Occupant to whom the parking space has been rented or assigned, and the period of such rental or assignment. If the Occupants of a Unit do not require use of a parking space assigned to the Unit, and wish to make the parking space available for use by other Occupants, the Owner of such Unit shall notify the Board of Directors or the Management Agent of the period during which such rental or assignment is available and the rental amount, if any, that the Owner will accept. The Board of Directors or the Management Agent shall maintain a list of such available parking spaces for review by Estate at Westbury Occupants. Nothing shall preclude the Association from using or renting an available parking space for visitor parking or other uses.

(4) No motorcycle, golf cart or other motorized recreational vehicle shall be parked or stored in parking areas unless it is (a) operable and properly licensed and (b) parked in accordance with any other rules or regulations established by the Association..

(5) Unless otherwise expressly approved by the Management Agent, only one vehicle shall be parked in a parking space.

(6) The Association and Management Agent shall not be responsible for any loss of or damage to vehicles or articles within vehicles parked on the Common Elements or Garage Common Elements.

15. Unauthorized Vehicles and Uses; Towing.

(1) Unless otherwise expressly approved by the Board of Directors or the Management Agent, no unlicensed or inoperable vehicle; mobile home; boat; house trailer or other trailer; camper; motor vehicle with sleeping facilities; bus; or truck or commercial vehicle over one (1) ton capacity shall be parked or stored on the Property; provided that trucks and other commercial vehicles that will reasonably fit into a designated parking space or other space approved by the Board of Directors or Management Agent shall be permitted on the Property for loading, unloading or maintenance services during normal business hours; and emergency vehicles shall be permitted on the Property at any time when reasonably required.

(2) Vehicle repairs on the Property shall be limited to minor emergency repairs requiring a short period for completion, such as replacement or charging of a dead battery or repair of a flat tire.

(3) Vehicles violating these Rules and Regulations may be towed at the sole cost and risk of the violator and without notice to the violator.

16. Responsibility for Damage to Common Elements.

If any maintenance, repair, or replacement of any portion of another Unit or the Common Elements or Garage Common Elements is required because of the negligent or willful act or omission of an Owner or Occupant of a Unit, then such Owner or Occupant shall be responsible for such maintenance, repair, or replacement. (For further provisions, see Article IV of the

Westbury Record on Appeal 0427

Book2310/Page2126

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Master Deed.)

17. Keys, Locks and Emergency Access.
In order to respond to emergency situations or deal with problems in adjacent areas, the Management Agent may require that the Unit owner provide a passkey for each Unit, which key shall be kept in a locked space under the control of the Management Agent. Except in situations reasonably believed to be emergencies or situations in which access is reasonably believed to be needed to prevent damage to the Unit or adjacent areas, access to a Unit shall occur only during normal business hours and then, whenever practicable, only upon advance notice to the Owner of the Unit. Keys and locks for Units shall not be altered or installed without prior consent of the Management Agent, which shall not be unreasonably denied. If consent is given, the Owner shall provide a copy of the replacement key to the Management Agent.

18. Solicitations.
Persons soliciting contributions or the purchase of goods or services, and persons seeking to distribute materials, brochures or information may be denied access to the Property unless (a) expressly required by law or (b) expressly invited, by name, as a guest of a specific Unit Owner or tenant, in which event the person invited shall limit the solicitation to the person(s) expressly inviting them.

19. Grills.
Because of safety and insurance concerns, only natural or propane gas or electric grills are permitted on the Property. Grills burning charcoal, wood, paper or other flammable materials are prohibited. Use of permitted grills shall follow proper procedures for fire prevention, cleanup, and smoke and odor control.

20. Penalties for Violations.

(1) In the event of failure to comply with these Rules and Regulations, the Board of Directors shall take such action as it determines is appropriate to enforce the Rules and Regulations or to remedy the problem caused by the failure to comply. Without waiver of any other enforcement rights that the Board of Directors, the Association or any Owner may have under the Master Deed or applicable law, the Board of Directors may also impose a Special Assessment on the applicable Unit of up to $100 for each violation of these Rules and Regulations.

(2) For an initial violation, the Board of Directors shall give the non-complying Owner or tenant of the applicable Unit written notice of the violation and, if desired, the action that is required in order to cure the violation. Unless otherwise provided in the Master Deed or these Rules and Regulations, or unless the Board of Directors or Management Agent determines that the violation constitutes a safety hazard, violation of law or an emergency situation, the Owner or tenant shall have 24 hours from receipt of notice, or such additional time as may be authorized, in writing, by the Board of Directors or Management Agent, to cure the violation or to provide reasonable evidence that no violation exists. No further notice shall be required prior to enforcement after notice of the initial violation is given.

21. Waivers of Rules and Regulations.
The Board of Directors or the Management Agent may, for good cause, as determined in its sole discretion, waive violations of these Rules and Regulations. Such waiver shall be in writing and a copy of such waiver shall be either maintained for a reasonable period in the records of the Association or recorded in the Register of Deeds for Beaufort County, South Carolina.

22. Amendment of Rules and Regulations.
The foregoing Rules and Regulations are subject to amendment by the Board of Directors and may be supplemented by other rules and regulations promulgated by the Board of Directors.

Westbury Record on Appeal 0428

ELECTRONICALLY FILED - 2020 Sep 14 11:11 AM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

CONSENT OF MORTGAGEE

WHEREAS, Hypo Real Estate Capital Corporation, as agent (the "Mortgagee") is the holder of a mortgage and related lien documents on the property located in the Town of Bluffton, Beaufort County, South Carolina being more particularly described in Exhibit A to this Master Deed (the "Property"), which Property is being converted by Montecito Westbury, LLC, a Delaware limited liability company, into a South Carolina horizontal property regime known as The Estate at Westbury Horizontal Property Regime;

WHEREAS, the Mortgagee now wishes to consent to the conversion of the Property into the foregoing South Carolina horizontal property regime, but nevertheless reserve all rights and remedies pursuant to its mortgage and other documents evidencing and securing the subject loan;

NOW, KNOW ALL MEN BY THESE PRESENTS, that the Mortgagee hereby consents to the submission of the Property to the South Carolina Horizontal Property Act, Sec. 27-31-10 et seq., South Carolina Code of Laws, 1976, as amended, by Montecito Westbury, LLC, a Delaware limited liability company, pursuant to the terms of this Master Deed; provided, however, notwithstanding the foregoing consent, the Mortgagee nevertheless reserves all rights and remedies pursuant to its mortgage and other documents evidencing and securing the subject loan including, but not limited to, the collateral assignment of the Declarant's rights pursuant to the Master Deed.

WITNESSES (as to both signatures):

Tim Alexander
Associate

Candice B. Biscocho
Associate

MORTGAGEE:
HYPO REAL ESTATE CAPITAL CORPORATION
as Agent

By: _____ (Seal)
Celeste Stinson
Its: Director

By: _____
Christopher Peters
Its: Director

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

ACKNOWLEDGEMENT

I, THOMAS FERGUSON, Notary Public for the State of New York do hereby certify that Hypo Real Estate Capital Corporation by CELESTE STINSON, its DIRECTOR, and CHRIS PETERS its DIRECTOR, personally appeared before me this 13th day of JAN, 2006, and acknowledged the due execution of this Consent Of Mortgagee.

_____ (Seal)
Notary Public for New York
My commission expires: _____

THOMAS B. FERGUSON
Notary Public, State of New York
No. 01FE4637789
Qualified in Queens County
Commission Expires July 31, 2006

31172804.doc

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO.: 2020-CP-07-00158
WESTBURY PARK RESIDENTIAL ASSOCIATION, INC.	)	
	)	PLAINTIFF'S SUPPLEMENTAL MEMORANDUM IN OPPOSIITON TO SUMMARY JUDGMENT AND IN SUPPORT OF ITS MOTION FOR A TEMPORARY INJUNCTION
Plaintiff,	)	
v.	)	
ESTATE AT WESTBURY OWNERS ASSOCIATION, INC.,	)	
Defendant.	)	

TO: Ian Ford, Esq., Ainsley Tillman, Esq., and Evan Bromley, Esq., Attorneys for Defendant:

9.01 Term: This Declaration, every provision hereof and every covenant, condition and restriction contained herein shall continue in full force and effect for a period of twenty (20) years from and after the date of recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. This Declaration may

9

be renewed for an unlimited number of successive ten (10) year periods by the Declarant, its successors or assigns filing a notice of extension with the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina prior to the expiration of any term.

Section 9.01, Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park[1]

[1] The Plaintiff begins it brief by including the entire text of Section 9.01 of the Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park. The Defendant failed to include the text of the second sentence of Section 9.01 in the body of its 34 page Memorandum in Support of Summary judgment. Further, in its cut and paste excerpt of 9.01, the Defendant fails to include the second sentence of § 9.1, excluding language that expressly sets forth the procedure and method that the Declarant, its Successors or Assigns may unilaterally *renew* the Declaration for successive 10 year terms. The Plaintiff submits for the Court's edification that the second sentence of Section 9.01 is the crux of a great deal of this case.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

I. THE PLAINTIFF'S LIKELIHOOD OF SUCCESS ON THE MERITS IS GREAT AND THE DEFENDANT'S MOTIONS FOR SUMMARY JUDGMENT SHOULD BE DENIED

MATERIAL FACTUAL BACKGROUND

The Defendant, Estate at Westbury Owners Association, Inc. (herein, the "Estate") is a horizontal property regime per the laws of South Carolina created on or about 2005. Prior to 2005, the development now known as the Estate was known as "Palmetto Lakes Apartments," and was owned by an individual owner, with all units being rental appartments. Thus, now a condominium complex, the Estate is the successor in interest to certain recorded instruments, including the "Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park." ((BK 57094 / PG 1225), Beaufort County ROD) (herein, the "Apartment Declaration") (**Exhibit 1**).

The Estate exists on a 20 acre parcel of land with 320 units (herein, the "Apartment Parcel"). The Apartment Parcel is northeast to Westbury Park Residential Association, Inc. (herein, "Westbury Park") and contiguous to it. It is possible to place an separate access to it from Plantation Park Rd., which would have been done between 2009 and 2011 had the Estates not refused the free development of that separate entrance by Beaufort County and Westbury Park. **Exhibit 2** (Estate at Westbury Board Meeting Minutes dated 12/11/10 discussing the detriments of a back gate and positive renting/selling point of entering the Estate community through a "private, peaceful attractive residential neighborhood"); **Exhibit 3** (Letter

from Estate at Westbury turning down the nearly free development of a second entrance in 2011).

Kensington Boulevard is a residential street within Westbury Park with individual houses placed fairly closely together on both sides. Presently, the only way to access the Apartment Parcel is through Westbury Park, on Kensington Blvd. While Westbury Park has over 350 residential units, it sits on over 120 acres. Thus, the thoroughfare of Kensington Blvd. receives an extraordinary amount of traffic from residents and vendors of the Estates, a 20 acre parcel with 320 units, significantly effecting the quality of life for the residents along the corridor.

a. Applicable provisions of the Apartment Declaration

Perhaps anticipating future friction that such land use planning could create, the Declarant of the Apartment Parcel, Plantation Properties, LLC, included Sections 2:01 and 2:02, establishing the Restrictions and the Purpose of Restrictions of the Apartment Declaration:

> 2.01 Establishment of Restrictions: Declarant, owner of the Property, hereby declares that the Property is now held, and shall hereafter be owned, leased, hypothecated and used subject to the restrictions set forth in this Declaration, each and all of which is and are for, and shall inure to the benefit of, and pass with, and be enforceable as equitable servitudes by the Owner or Lessee of each and every portion of the Property, and shall apply to and bind the heirs, assignees and successors in interest of any Owner or Lessee of each and every portion of the Property.

> 2.02 Purpose of Restrictions: The purposes of these restrictions is to insure proper development and use of the Property to be in keeping with the community wide standards established for the Westbury Park Commercial Subdivision, and the Westbury Park Residential Subdivision, the latter of which is contiguous to the Property.

Pg. 1, **Exhibit 1**.

Westbury Record on Appeal 0432

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Article VII, Sections 7.02(a)-(b) of the Apartment Declaration sets forth vehicular and pedestrian right of ways from the two roadway entrances of Westbury Park to the Apartment Parcel (where the Estate is located)[2]:

> 7.02 Easements for Owner: Subject to the provisions hereof and the restriction contained in Subparagraph 7.02(a) hereafter, Owner, its successors and assigns, Owner's tenants, all guests and invitees of such tenants/owners, all employees, contractors, suppliers, vendors and other representatives of Owner and all other persons who reasonably need, on Owner's behalf, access to the "Property" shall have a right and easement of use of those certain easements as hereinafter more fully described as shown on the Plat.
>
> (a) Perpetual non-exclusive right for vehicular and pedestrian access over and across Westbury Park Way from its intersection with US Highway 278 and its intersection with Kensington Boulevard. This right-of-way is relocatable by Declarant and/or Buck Island, L.L.C. provided such relocated easement affords the Property adequate and proper access to and from US Highway 278. It is specifically agreed and understood notwithstanding anything to the contrary herein, construction traffic and construction suppliers are prohibited from utilizing this easement for access to or from the Property. Owner shall be responsible to place signs directing all construction traffic and construction suppliers going to the Property to only use Kensington Boulevard as shown on the Plat, and to insert provisions within construction contracts specifying the allowable access route.
>
> (b) Perpetual non-exclusive right for vehicular and pedestrian access over and across Kensington Boulevard from its intersection with Buck Island Road to its intersection with the Property.

Article VIII of the Apartment Declaration (**Exhibit 1**) sets forth fixed Assessments, put in place initially for Palmetto Lakes Apartments, paid to the Declarant, and lien rights held by the Declarant in the event of a failure to pay:

[2] The Plaintiff maintains and does not waive the argument that the Declaration does not create a right of way, easement, or any other real property interests as it is not contain an Acknowledgement, in violation of SC Code § 30-5-10, et seq.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ARTICLE VIII

ASSESSMENTS

8.01 The Owner, its successors or assigns (but not tenants), by accepting a Deed to the Property is deemed to covenant and agree to pay an assessment ("Assessment") to Declarant, or its assigns on an annual basis the sum of $17,500.00 as its share of the costs for maintenance of the Required Streets and landscaping along the Required Streets and around and within parks within the Westbury Park Residential Area and the Westbury Park Commercial Area. This Assessment shall become due and payable on February 1 of each year and if not paid shall bear interest at the rate of ten percent (10%) per annum until paid. The reasonable care and replacement of the Required Streets and landscaping within the Westbury Park Residential Area shall remain the responsibility of the Westbury Park Residential Owners Association, Inc., and the reasonable care and replacement of the Required Streets and landscaping within the Westbury Park Commercial Area shall remain the responsibility of the Westbury Park Commercial Center Property Owners Association, Inc.

8.02 The Assessment as set forth hereinabove shall commence on January 1, 1999, be adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers, All Items (Base Year 1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, all city average. Under no circumstances will the Annual Assessment fall below the minimum of $17,500.00 per year.

8.03 The Assessment shall, if not paid within thirty (30) days of its due date, constitute a lien against the Property until paid. The lien shall also secure payment of interest, late charges (subject to the limitations of South Carolina Law) and costs of collection (including attorney and paralegal fees). Such lien shall be superior to all other liens, except: (a) the liens of all taxes, bonds, Assessments and other levies which by law would be superior, and (b) the lien or charge of any first priority mortgage of record made in good faith and for value. Notwithstanding the foregoing to the contrary, the subordination of the Assessment lien to the lien of any first priority mortgage of record shall only apply to such Assessments which have become due and payable prior to foreclosure. Any mortgagee who acquires title to the Property by foreclosure shall be liable for Assessment thereafter becoming due. All other persons acquiring liens or encumbrances on the Property after this Declaration shall have been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

b. **The 2005 Amendment to the Apartment Declaration Allowing Conversion to Condominium Units and Modifying the Assessment**

In 2005, the Apartment Declaration was *AMENDED* to allow the Apartment Parcel to be converted to condominium units, which was previously prohibited (see

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Exhibit 1, § 5.02(a)). In approving this Amendment to the Apartment Declaration, the Declarant and the owner of the Apartment Parcel agreed to *alter and change* the Assessment payment from $17,500 per year, to a base amount of $7,200 a month. Specifically, Sections 4 and 5 of the Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park (herein, the "Amendment") (**Exhibit 4**), state:

> 4. The first two sentences of Section 8.01 shall be deleted and, the following sentences shall be inserted at the beginning of Section 8.01. "The Owner, its successors or assigns, by accepting a Deed to the Property is deemed to covenant and agree to pay an assessment ("Assessment") to Declarant, or its assigns on a monthly basis in the amount of $7,200 as its share of the costs for maintenance of the Required Streets and landscaping along the Required Streets and around and within parks within the Westbury Park Residential Area and the Westbury Park Commercial Area. This assessment shall become due and payable on the 15th day of each month, and if not paid shall bear interest at the rate of ten percent (10%) per annum until paid. In the event the Owner converts the Property to the condominium form of ownership, the resulting condominium association shall have the obligation to collect adequate funds from the individual unit owners and pay the Assessment directly to the Declarant."
>
> 5. Section 8.02 shall be deleted and the following sentence shall be inserted at the beginning of Section 8.02. "The Assessment as set forth hereinabove shall commence on January 1, 2006, and shall be adjusted annually to reflect changes in the Consumer Price Index for all urban Consumers, All Items (base year 1982-1984=100) published by the United States Department of Labor, Bureau of Labor Statistics, all city average. Under no circumstance will the Annual Assessment fall below the minimum of $86,400.00 per year."

The Plaintiff draws reference to the fact that, in the Amendment, which was signed by both the Declarant and the Owner of the Estate's predecessor in interest, no inspection rights were granted. No rights for an accounting or for reconciliation were provided. And, instead, it was specifically stated that, "Under no circumstance will the Annual Assessment fall below the minimum of $86,400.00 per year."

c. Westbury Park's October 2018 Renewal of the Declaration

Section 9.01 of the Apartment Declaration states (in its entirety):

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

9.01 Term: This Declaration, every provision hereof and every covenant, condition and restriction contained herein shall continue in full force and effect for a period of twenty (20) years from and after the date of recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. This Declaration may

be renewed for an unlimited number of successive ten (10) year periods by the Declarant, its successors or assigns filing a notice of extension with the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina prior to the expiration of any term.

In 2015, Declarant Rights for the Apartment Declaration were assigned Westbury Park and Westbury Park Commercial Association. Westbury Park is the Declarants successor. Per the plain terms of Section 9.01 of the Declaration, Westbury Park Residential Association renewed the Apartment Declaration for a period of 10 years on October 23, 2018 by filing a Notice of Extension with the Register of Deeds (**Exhibit 5**) (Notice of Extension of the Declaration of Covenants, Conditions, Restrictions, and Easements for Palmetto Lakes Apartments at Westbury Park, and recording assignment of Declarant Rights).

D. **The Estate of Westbury's Material Breach of the Declaration and Easement Agreement**

Section 9.01 of the Declaration—the Term and Renewal section—speaks nothing of joint filing. It does not require any filing renewing the Declaration to be acknowledged. As stated above, on October 23, 2018, the Declaration was renewed by Westbury Park. Ironically, also on or about October 23, 2018, Westbury Park received correspondence from the Estate (dated October 15, 2018) stating that it would not recognize or take part in any *extension* of the declaration. In this correspondence, the Defendant failed acknowledge or include the express procedure

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

for the Declarant, its successors or its assigns to unilaterally renew Section 9.01 (**Exhibit 6**) (Correspondence from Counsel for Defendant, declaring that the Estate will not extend the declaration, and failing to reference Section 9.01 of the Declaration). Indeed, as set forth more fully below, Sections 9.01 and 9.02 contain material differences showing the instrument's intent.

Section 9.01 (set forth verbatim, above) **expressly sets forth the manner in which the Declaration may be Renewed in successive 10 year terms by the Declarant or its successors or assigns, alone.** Thus, it specifically controls the natural length of the Declaration by its original terms and not to its unnatural termination, or alteration of its content, substance, or any extension not in congress with its original terms. Section 9.01 sets forth a unilateral right for the Declarant or its successors or assigns to *renew* the Declaration by filing "Notice of Extension with the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina prior to the expiration of any term." This is different from altering, modify or otherwise extending the Declaration to different terms or in a different manner than what is already included in the text of the Declaration.

Compare Section 9.01 *with* the text of 9.02:

> 9.02 Termination and Modification: This Declaration, or any provision hereof, or any covenant, condition or restriction contained herein, may only be terminated, extended, modified or amended, as to the whole of said Property or any portion thereof by the Declarant and Owner jointly. No such termination, extension, modification, or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the Office of the Register of Mesne Conveyance for Beaufort County, South Carolina. No such termination, extension, modification or amendment shall be in violation of County requirements and/or ordinances.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Section 9.02 speaks nothing to the Declarant's right to renew the Declaration for successive 10 year terms. Instead, its terms clearly set forth a different meaning and purpose—a requirement for a joint filing in the event that the Declaration is *changed* from its existing terms. "*This declaration, or any provision hereof, or any covenant, condition or restriction contained herein*, may only be terminated, extended, modified, or amended, as to the whole of said Property or any portion thereof by the Declarant and Owner jointly." (emphasis added). That is, if the contents of this Declaration are to be *changed*, the Declarant and Owner must do so together. **Importantly**, for a filing under section 9.02 to be effective, it must be "Executed and acknowledged and recorded." Again, 9.01 specifically does not require a joint filing for renewal, and it says nothing of being "executed and acknowledged jointly." Section 9.02 does.

i. <u>The differences between the recording procedure and execution procedure found between Section 9.01 an Section 9.02 have meaning</u>.

Clearly, the differences between the recording procedure and execution procedure contained in 9.01 and 9.02 have meaning. An Acknowledgement is a defined term under South Carolina law. (indeed, there is an "Act" for that SC Code § 26-3-10, et seq.). By including the requirement that an alteration under Section 9.02 be "executed and acknowledged jointly" and setting forth a different procedure for the Declarant or its assigns to unilaterally file a Notice renewing the Declaration in preordained ten year terms in 9.01 (as opposed to modifying or expanding its existing content as is set forth in 9.02), the drafter of the instrument conveys its intent treat

a renewal of the Declaration which does not change the substance thereof differently from a modification. "[I]t is the duty of the court to construe deeds and determine their legal effect, where there is no such ambiguity as requires parol proof and submission to the jury." Hunt v. Forestry Comm'n, 358 S.C. 564, 569, (S.C. App. 2004)(*quoting* 26A C.J.S. Deeds § 168 (2001)).

Here, because the Plaintiff renewed the Declaration under Section 9.01 in strict conformity with its terms, it will succeed in the suit, and the Defendant's Motions for Summary Judgment as to the Plaintiff's claims must fail.

II. THE ESTATE AT WESTBURY'S COUNTERCLAIMS ARE WITHOUT MERIT.

a. The Estate waived its right to an Accounting, Unjust Enrichment, and/or Breach of Fiduciary Duty Claims long ago.

From 1998 to 2018, the Estate has no record of any objection to the assessment and no record of a demand for a single reconciliation or for an accounting of the assessment funds. Jeanette Prinson Dep 49:11—52:17 (Sept. 2, 2020)(HOA Manager for Defendant); Austin Adams Dep. 38:4—39:12 (Sept. 2, 2020)(Vice President of the Defendant). If nothing else, the Plaintiff holds a significant argument that the Estate waived all claims towards any relief for an Accounting, Unjust Enrichment, Breach of Fidiciary Duty, or Breach of Contract, and assented to the terms of the contract long, long ago.

Further, the Plaintiff submits that the failure to request relief before October 2018 was because it was known then, and should be now, that the Assessment constitutes a fixed fee specifically set forth in the contract for the Apartment Parcel's

Westbury Record on Appeal 0439

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

use, enjoyment and access to its property, as well as constituting consideration for the substantial burden placed on Westbury Park for the traffic that exists on the purported easement corridor, and the cumbersome effect the same has to its residents safety and quality of life.

Looking closely at the contract at issue—the Apartment Declaration and its Amendment (pertinent terms included in text, above)—grant no rights whatsoever to an accounting, reconciliation or even an implication that the money should be set aside for a specific purpose. Instead, it states plainly and definitively that the amounts paid are "as its share." Period.

Moreover, the payment structure has a floor of $86,400.00/year. This amount constitutes the payment of an assessment fee. The Defendant has no equitable right to be repaid amounts paid without protest or legal right to claw-back funds that were specifically owed under a fixed-fee contract.

The intangible value represented by the "Easement fee" is perhaps best expressed by the Board of the Estate at Westbury in **Exhibit 2**, where it recognizes that its community would suffer from a second entrance because:

- it is presently the " 'Hidden Jewel of Bluffton" because we are hidden from themain highway and aligned with a quiet residential neighborhood."
- The back gate "may attract unwanted pedestrian visitors to the community. . . ." And, the "Estate will experience increased community through-traffic generated from the Westbury Community seeking a fast

Westbury Record on Appeal 0440

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

approach to Highway 278" (that is, what Westbury Park has suffered for over 20 years from the Estate residents and visitors).

- "Units directly at the back gate will suffer loss of tranquility, privacy, vehicle noise and possible reduction in property values"

Westbury Park submits that each of these concerns is the precise reason the Easement Fee existed, and are realities that its residents suffer and live through every day.

b. The Estate is barred from obtaining any relief under the Doctrine of Unclean Hands.

Since October 2018, the Estate has refused to make any further payments toward the assessment and, again, for the first time after paying the assessment for 20 years, demanded an accounting for its payments without basis. This is wholly against the common law duty of a Dominant Estate's responsibility to pay its portion of maintenance and care of an easement.

Further, it appears the Estate made the decision to breach the easement agreement and refuse to make any payment to Westbury Park without a Board or owner vote authorizing the act. See Jeanette Prinson Dep. 46:24-48:19. In so doing, it subjects itself to a judgment for back payments, interests, attorney's fees, and ultimately, potential foreclosure on its common elements. It did not seek a declaratory judgment ruling from the court. Instead, it took a tenuous and extreme position arguing against the plain reading of the Declaration and still omits key language in its arguments which is the crux of case between the parties to this day. Indeed, the Accounting demand and the Estate's declaration that it would make no

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

further payments whatsoever to Westbury Park for its use of its streets, security, and maintenance and operation of the gates appears to be *Ultra Vires* act by the Board of the Estate at Westbury, entered into with a vote or authority.

c. The Estate acknowledges that the Apartment Declaration does not contain terms granting it the rights or relief that it is seeking

The Estate's Vice President acknowledged at his deposition that the assessment agreement at issue contains no language or "verbiage" stating that the Estate has any right to an accounting regarding payments made to Westbury Park. Adams Dep. 67:4—9. Mr. Adams acknowledges that no language sets forth a requirement that the money would be deposited in a trust, constructive or otherwise. Id. 67:10—15. Mr. Adams acknowledges that the Apartment Declaration does not contain verbiage stating that it has a right to a reconciliation or any type of inspection rights. Id. 67:16—21. In the same deposition, Mr. Adams acknowledges that "[a] contract states what it states." Id. 61:4-6.

d. Westbury Park is not the real party at interest relative to the Defendant's Counterclaims.

To further complicate the Estate's position, until recently, Westbury Park Residential Association received only a portion of the Assessment funds, with the Declarant retaining the majority. The Estate knows that Westbury Park received but a small portion of the money it paid to the Declarant over time, yet it choses not name the Declarant as a party.

In sum, the Plaintiff's likelihood of success on the merits in the underlying action is great, the Defendant's Motions for Summary Judgment should be denied,

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

and the Plaintiff's Motion for a Temporary Injunction should be granted, for further reasons set forth below.

III. THE RELIEF THE PLAINTIFF SEEKS IN ITS MOTION FOR A TEMPORARY INJUNCTION IS REASONABLE, PROPER AND NECESSARY UNDER THE CIRCUMSTANCES

While it is undoubtedly the correct rule that a court of equity will not interfere by injunction in cases of nuisances, trespasses, and like injuries to property when the parties can have complete redress in a court of law, still if it appears that irreparable mischief will be done by withholding the process, or where the damages that will result to the complainants are incapable of being adequately measured, or where the mischief is such, from its continuous and permanent character, that it must occasion constantly recurring grievances, which cannot be otherwise prevented, a court of equity ought to interfere by injunction to stay the wrong and protect the complainants' property and personal rights [218 S.C. 272] from hurt or destruction.

Carter v. Lake City Baseball Club, 218 S.C. 255, 62 S.E.2d 470 (S.C. 1950)

a. **The Plaintiffs have documented over one hundred incidents of unauthorized gate access by Estate at Westbury residents and guests, and scores of incidents of trespass upon Westbury Park common property since December 2018, and they continue.**

1. Despite the Defedant's representations that the Plaintiffs have provided "no evidence" to them regarding the Defendant's conduct, the Plaintiffs shared with the Defendants scores of videos and photographs documenting entry by Estate residents, guests, or vendors violating Westbury Park's Rules and Regulations concerning gate entry, use of common property, and/or traffic infractions.

B. **The Defendant holds the responsibility of regulating their member's use of the area subject to the purported easement, and, the Plaintiff has the right to regulate conduct on its common property**

1. The Estate acknowledges that it is "bound" by "Westbury Park's rules concerning the gates and access to the property." See Exhibit 2, Estate at Westbury's Memorandum in Opposition to Temporary Injunction.

Westbury Record on Appeal 0443

2. It is clear that Westbury Park has the right to regulate and enforce conduct on its own property. See Howorka v. Harbor Island Owners' Association, Inc., 292 S.C. 381, 356 S.E.2d 433 (S.C. App. 1987)

C. Defendant fails to reasonably enforce its existing rules and regulations, making it impossible for Plaintiff to regulate conduct on its property

1. Defendant admits that it and its members ["we"] are "bound" by Westbury Park's Rules and Regulations Id., yet it refuses to take any meaningful administrative action when notified of its residents' breach of those very Rules and Regulations.

D. Defendant has consistently failed to implement reasonable rules, fines, warnings, or other deterrents to prevent its members and occupants from damaging Westbury Park property and violating its Rules and Regulations.

E. Defendant fails to cooperate with Westbury Park in any meaningful manner to allow it to enforce Rules and Regulations as to its property, to prevent property damage and criminal acts, and to restrain trespassing by its residents;

1. While Westbury Park appreciates steps made to acknowledge cooperation is needed, all recent actions taken by the Estate are in response to demands made by Westbury Park or in response to this litigation.

Defendant's Exhibit 2, Exhibit 3, and Exhibit 4 to its Memorandum in Opposition are a direct result of and in response to the Plaintiff's lawsuit and correspondence. See **Exhibit 8** (Letter to Defendant dated June 20, 2019 Notifying Defendant of Default and of Gate Trespass by Security for the Estate at Westbury); **Exhibit 9** (Letter to Defendant dated April 8, 2020 notifying Defendant of violations by its residents). Like the Defendant in Mack v. Edens, "only when [the Estate] was sued did [it] relent." 306 S.C. 433, 437; 412 S.E.2d 431, 434 (S.C. App. 1991) (holding

Westbury Record on Appeal 0444

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

that injunction was a proper remedy for trespass on land from the release of water, even when the Defendant abated the act after being sued).

Further, the court should give no weight to this hearing being continued from its original date: It was originally continued as a courtesy to the Defendant and, thereafter, it was continued until the parties could appear in person due to the Covid-19 crisis.

F. **The Defendant's actions and inactions cause or constitute a serious risk of irreparable harm to the Plaintiff**

1. While the Defendant disparages and undermines the Plaintiff's claims to a continual trespass to its real property in its brief, South Carolina law is clear: continuous trespassing constitutes conduct that is proper for a court to enjoin. Carter v. Lake City Baseball Club, 218 S.C. 255, 272 62 S.E.2d 470 (S.C. 1950)

Injunction is the proper remedy for a continuous trespass to land. Mack v. Edens, *Supra* (citing McClellan v. Taylor, 54 S.C. 430, 32 S.E. 527 (1899). The Plaintiff's documentation of repeated, recurring trespass to its real property fixtures (gates) and of its real property (streets, sidewalks, parks, lagoons and other common areas) by Estate owners, residents and/or guests and repeated recurring trespass upon its amenities and Common Elements constitutes a continual trespass.

Similarly, the Defendant's owners residents and guests continual and repeated brazen violations of the Plaintiff's Rules, Regulations and public safety laws (operating vehicles through exit ways to avoid gates, pushing the gates open, failing to stop at stop signs, etc.), constitutes a serious risk and likelihood of permanent injury. Without assistance from the Estate with cooperation in enforcing its own

Rules and Regulations as to vehicle registration, occupant monitoring, and occupant registries, Westbury Park is largely powerless to effectively enforce its rules, regulate conduct on its property, and prevent further action. Without the Estate taking enforcement actions on violations of gate policy, Westbury Park is powerless to prevent future harm.

Because of the permanent and recurring nature of the injury, which cannot otherwise be prevented, this court should enjoin the continuous trespassing of Estate owners and residents and protect Westbury Park's property rights from further hurt and destruction. See Mack v. Edens, 306 S.C. 433, 412 S.E.2d 431 (S.C. App. 1991).

G. The Plaintiff has a high degree of likelihood of success on the merits.

The Plaintiff draws reference to their arguments in this memorandum in opposition to Summary Judgment.

Respectfully submitted,

/s/Benjamin T. Shelton

Benjamin T. Shelton
SC Bar No 77207
FINGER, MELNICK & BROOKS, P.A.
35 Hospital Center Common, Suite 200
Hilton Head, South Carolina 29925-4005
Telephone: (843) 681-7000
email: bshelton@fingerlaw.com

Hilton Head Island, South Carolina
September 15, 2020

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PALMETTO LAKES APARTMENTS AT WESTBURY PARK

This Declaration of Covenants, Conditions and Restrictions ("Declaration") is made this 10th day of November, 1998, by Plantation Properties, L.L.C., a South Carolina Limited Liability Company ("Declarant") as follows:

ARTICLE I

RECITALS

1.01 Declarant is the owner of the approximately twenty (20) acre parcel of real property in Bluffton Township, Beaufort County, South Carolina; more fully described on attached Exhibit "A" (the "Property").

1.02 General Plan: To establish a general plan for the improvement and development of the Property, Declarant hereby subjects the Property to the conditions, covenants and restrictions set out below, upon and subject to which all of the Property shall be hereafter owned, leased, hypothecated and used.

ARTICLE III

GENERAL PROVISIONS

2.01 Establishment of Restrictions: Declarant, owner of the Property, hereby declares that the Property is now held, and shall hereafter be owned, leased, hypothecated and used subject to the restrictions set forth in this Declaration, each and all of which is and are for, and shall inure to the benefit of, and pass with, and be enforceable as equitable servitudes by the Owner or Lessee of each and every portion of the Property, and shall apply to and bind the heirs, assignees and successors in interest of any Owner or Lessee of each and every portion of the Property.

2.02 Purpose of Restrictions: The purposes of these restrictions is to insure proper development and use of the Property to be in keeping with the community wide standards established for the Westbury Park Commercial Subdivision, and the Westbury Park Residential Subdivision, the latter of which is contiguous to the Property.

2.03 Definitions:

(a) Improvements: "Improvements" shall mean and include buildings, out-buildings, parking areas, loading areas, fence, walls, landscaping, poles, signs and any structures of any type or kind.

(b) Owner: "Owner" shall mean the owner of the fee interest in the Property.

Westbury Record on Appeal 0447

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(c) Plat: That certain Plat thereof prepared by Surveying Consultants entitled "ALTA/ACSM Land Survey of 20.00 Acre Parcel, a Section of Block X-1 a Portion of Rose Hill Plantation, Bluffton Township, Beaufort County, South Carolina, dated the 7th day of October, 19 98 and recorded in the records of the RMC Office for Beaufort County, South Carolina in Plat Book 67 Page 118."

(d) Required Streets: "Required Streets" shall mean Westbury Park Way and Kensington Boulevard as shown on the Plat.

(e) Westbury Park Commercial Area: "Westbury Park Commercial Area" shall mean all those certain lots, roadways and common areas more fully shown and described on a Plat of Westbury Park Commercial, Beaufort County, South Carolina prepared for Plantation Properties, L.L.C. by Thomas & Hutton Engineering Co. dated March 10, 1997, recorded in the Office of the Register of Mesne Conveyance for Beaufort County, South Carolina in Plat Book 63 at Page 183.

(f) Westbury Park Residential Area: "Westbury Park Residential Area" shall mean all or any portion of that tract of land situate, lying and being in Rose Hill Planned United Development, Bluffton Township, Beaufort County, South Carolina, containing 128.973 acres, more or less, shown and described as "BLOCK X-1" on that certain plat entitled "A Plat of Block X-1, X-2, X-3, and X-4 being a portion of Block "X" prepared by Thomas & Hutton Engineering Co., Boyce L. Young, SCRLS 11079, dated December 30, 1996 and recorded in the RMC Office for Beaufort County, South Carolina in Plat Book 58 at Page 198, less and except the Property.

2.04 Prior to Construction: "Prior to construction", the Owner shall maintain the Property in a neat and orderly condition free of weeds and other debris.

ARTICLE III

REGULATION OF IMPROVEMENTS

3.01 County Requirements:

(a) Nothing herein shall supersede the County of Beaufort's present or future requirements and ordinances. All of said requirements and ordinances, shall prevail, and it shall be the responsibility of Owner to conform to them.

(b) General: No structure, of any kind, and no part thereof, shall be placed on the Property closer to the property line than permitted by the County of Beaufort, giving consideration to any variance that may be obtained.

3.02 Completion of Construction: After commencement of construction of any structure, the Owner shall diligently prosecute the work thereon, to the end that the structure shall not remain in partly finished condition any longer than reasonably necessary for completion thereof.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

3.03 Excavation: No excavation shall be made except in connection with construction of an improvement, and upon completion thereof exposed openings shall be backfilled and disturbed ground shall be graded.

3.04 Landscaping: Landscaping shall be installed prior to occupancy or within sixty (60) days after the completion of the first building on the Property, whichever occurs first. All areas in the Property not used for structures, parking, storage, sidewalks, amenities, driveways and other improvements, shall be planted and maintained with grass and landscaping.

3.05 Signs: No billboard or advertising sign shall be permitted. No attached or detached signs or displays identifying Owner or the apartment complex on the Property shall be used unless their design has first been submitted to and approved by Declarant in writing, so as to assure a dignified and basically uniform appearance of all signs and displays within the Property.

3.06 Storage and Loading Areas - Outside Storage: After all construction of the Improvements is complete, no construction, landscape or maintenance material, supplies or products shall be stored or permitted to remain on the Property in unscreened areas. Screening of storage areas shall be accomplished by the use of landscaping, walls, buildings, fencing or any combination thereof, to a height sufficient to screen the stored items, except that such height shall not exceed eight feet.

3.07 Waste Disposal: No waste material or refuse shall be dumped, placed or (except during construction) allowed to remain on the Property outside a permanent structure unless it is in closed containers of a quality to control odors and behind a visual barrier screening such areas so that they are not visible from neighboring properties or public streets. All such waste and trash materials shall be regularly removed and shall not be allowed to accumulate.

3.08 Off-Street Parking:

(a) The arrangement, access and number of all parking spaces and lots shall conform to applicable County of Beaufort requirements and ordinances, giving consideration to any variances that may be obtained.

(b) Automobile parking areas shall be provided with entrances, exits and aisles adequate to provide safe movement of vehicles.

(c) Subject to the Development Regulations of Beaufort County, South Carolina, the front yard and exterior side yard setback areas may be used for parking and access ways. However, not less than 20 feet of the setback areas (exclusive of wetlands), as measured from the property line, shall be landscaped.

(d) Adequate off-street parking shall be provided to accommodate all parking needs of employees, tenants and visitors on the Property.

3.09 Trucking and Loading:

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(a) Adequate turn around room area shall be provided for safe operation of trucks in loading areas.

(b) Trucking areas shall be adequately designed and paved for the type of operation intended.

3.10 Building Regulations: Any building erected on the Property shall conform to the following construction practices:

(a) The exterior of all structures erected on the Property shall be constructed in accordance with the Approved Plans (as hereinafter defined).

(b) All buildings erected shall conform to the applicable building codes and ordinances of the County of Beaufort, giving consideration to any variance that may be obtained.

(c) Exterior walls shall be painted or suitably treated in accordance with the Approved Plans.

3.11 Care, Maintenance and Repairs: All structures, landscaping and improvements from time to time placed upon the Property in accordance with the terms hereof or the requirements and ordinances of the County of Beaufort shall be maintained in good clean condition and repair at all times, normal wear and tear excepted.

3.12 Drainage: All drainage of water from the Property and Improvements thereon shall drain or flow into easement areas provided for such purpose as shown on the Plat, and all slopes and terraces shall be maintained as to prevent any erosion thereof upon any streets or adjoining property and in accordance with the applicable ordinances of the County of Beaufort and the State of South Carolina.

ARTICLE IV

APPROVAL OF PLANS

4.01 Submission of Plans: No improvements shall be erected, placed, altered, maintained or permitted to remain on the Property until plans and specifications showing plot layout and all exterior elevations, with materials and colors therefor and structural designs, signs, landscaping, and a tree survey indicating trees to be removed and replaced shall have been submitted to and approved in writing by Declarant (the "Approved Plans").

4.02 Standards for Approval: Approval by Declarant shall be based, among other things, on conformity and harmony of external design with neighboring sites; relation to topography, grade and finished ground elevation of the site being improved to that of neighboring sites; proper design of main exterior elevation with respect to nearby streets; and conformity of plans and specifications to the purpose and general plan and intent of these restrictions. All structures and walls shall be

Westbury Record on Appeal 0450

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

constructed of maintenance free durable material. Declarant shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

4.03 Time for Approval: If Declarant fails to either approve or disapprove such plans and specifications within twenty (20) days after the same have been submitted to and received by Declarant it shall be conclusively presumed that Declarant has approved the plans and specifications.

Upon receipt of approval from Declarant pursuant to this section, the Owner to whom the same is given shall, within six (6) months of acquisition of title, satisfy all conditions thereof, subject to force majeure, and diligently proceed with the commencement and completion of all approved construction and alterations. In all cases, work shall be substantially completed within two (2) years from the date of commencement of construction. It there is a failure to comply with this paragraph, then the approval given pursuant to this section shall be deemed revoked unless Declarant, upon written request made to it prior to the expiration of said two (2) year period, grants a written extension of the time for completing work.

4.04 Release of Liability: Neither Declarant nor its successors or assigns shall be liable for damages to anyone submitting plans to them for approval or to any Owner affected by this Declaration, by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any such plans. Every person who submits plans to Declarant for approval agrees, by submission of such plans, and every Owner of the Property agrees, by acquiring title thereto or interest therein, that he will not bring any action or suit against Declarant to recover any such damages.

ARTICLE V

REGULATION OF OPERATIONS AND USES

5.01 Permitted Operations and Uses: The Property is subject to the restriction that it be used for the construction and operation of an apartment complex to contain not more than three hundred twenty (320) apartments, which shall be utilized for residential purposes only.

5.02 Other Operations and Uses: The Owner shall be subject to the following restrictions:

(a) Resubdivision of the Property: The property shall not be split, divided or subdivided for sale, resale, gift, transfer or otherwise, nor shall its boundary lines be altered, without the prior written approval of Declarant.

(b) Temporary Buildings: No temporary building, trailer, garage or building under construction shall be used temporarily or permanently as a residence on the Property except as temporary sleeping or living quarters required or desirable for security purposes. Owner or Owner's contractors may use temporary structures, such as construction trailers while developing the Property.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(c) Fences: No fence or wall of any kind shall be erected, maintained or altered on the Property without the prior approval of Declarant.

(d) Antenna/Satellite Dish: Except with the prior written approval of Declarant, no outside television or radio aerial, satellite dish or antenna or other device for the reception and transmission of radio or television or other electronic signals, including telecommunications towers shall be erected or maintained on any portion of the Property or upon the exterior of any buildings erected on the Property. Declarant shall approve an application for the installation of one (1) satellite dish to provide television services to the apartments, so long as the satellite dish or other receiving device shall not be visible from the ground on any property contiguous to the Property.

(e) Clothes lines, Garbage Cans, Mailboxes: No clothes lines visible from any property contiguous with the Property shall be permitted. All equipment and garbage cans shall be kept in a garbage can screened by adequate planning or approved fencing so as to conceal them from view by neighboring residence and streets.

(f) Parking and Related Restrictions: (i) No vehicle belonging to Owner or any of Owner's tenants shall be permitted to park on any of the streets that provide access to the Property that are not contained within the Property or on any property contiguous to the Property; and (ii) no school bus, truck (other than pick-up trucks), commercial vehicle (over one (1) ton capacity), house trailer, mobile home, motor home, recreational vehicle, camper, habitable motor vehicle of any kind, boat or boat trailer, or like equipment shall be permitted on the Property on a permanent basis unless stored within garages or carports.

(g) Lagoon Front and Wetlands: Owner and Owner's tenants shall conform to all restrictions placed by applicable laws, ordinances and covenants on lagoons or wetlands on the Property.

(h) Solid Waste: (i) Neither Owner nor any of Owner's tenants shall dump rubbish, garbage or any other form of solid waste on the Property; (ii) except during construction, neither Owner nor any other contractor shall burn rubbish, garbage or any other form of solid waste on the Property; (iii) except for building materials employed during the course of any construction on the Property, no lumber, metals, bulk materials or solid waste of any kind shall be kept, stored or allowed to accumulate on the Property unless screened or otherwise handled in a reasonable manner; and (iv) at all times, containers for the collection of rubbish, garbage or any other form of solid waste must be maintained in a screened or enclosed area.

(i) Nuisances: No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done on the Property by Owner or any of Owner's tenants which may be or may become a public or private nuisance to the Westbury Park community.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ARTICLE VI

ENFORCEMENT

6.01 Equitable Servitudes: All of the provisions herein contained shall run with the land and shall be enforceable at law or in equity as equitable servitudes by Declarant.

6.02 Attorneys Fees: In any legal or equitable proceeding for the enforcement of this Declaration or to restrain any violation of this Declaration or any provision hereof, the prevailing party shall, in addition to all other costs, be entitled to recover from the non-prevailing party reasonable attorneys' fees. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

6.03 Inspection: Declarant may from time to time at any reasonable hour or hours, and after reasonable notice to Owner, enter and inspect any property subject to these restrictions (other than the interior of any apartments) to ascertain compliance therewith. No such entry or inspection shall disrupt or disturb any of Owner's tenants or Owner's operations of the Property, unless Owner's tenants or Owner's operation of the Property are the cause for entry.

6.04 Failure to Enforce Not a Waiver of Rights: The failure of Declarant or any Owner to enforce any restriction herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restriction.

ARTICLE VII

EASEMENTS

7.01 Easements for Declarant: Declarant hereby reserves for itself its successors and assigns the "Relocatable 20' Sanitary Sewer Easement" and that certain "Relocatable 20' Storm Drain Easement" as more fully shown on that certain Plat entitled "ALTA/ACSM Land Title Survey of 20 Acre Parcel, Westbury Park, a section of BLOCK X-1 a portion of Rose Hill PUD, Bluffton Township, Beaufort County, South Carolina" prepared for Declarant by Surveying Consultants, dated October 7, 1998, a copy of which is recorded in the records of the Office of the Register of Mesne Conveyance for Beaufort County, South Carolina in Plat Book 67 at Page 118 ("Plat")." Owner shall have the right to relocate the easements described herein prior to its commencement of construction of improvements on the Property, provided such relocation does not make the easements unusable.

7.02 Easements for Owner: Subject to the provisions hereof and the restriction contained in Subparagraph 7.02(a) hereafter, Owner, its successors and assigns, Owner's tenants, all guests and invitees of such tenants/owners, all employees, contractors, suppliers, vendors and other representatives of Owner and all other persons who reasonably need, on Owner's behalf, access to the "Property" shall have a right and easement of use of those certain easements as hereinafter more fully described as shown on the Plat.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

(a) Perpetual non-exclusive right for vehicular and pedestrian access over and across Westbury Park Way from its intersection with US Highway 278 and its intersection with Kensington Boulevard. This right-of-way is relocatable by Declarant and/or Buck Island, L.L.C. provided such relocated easement affords the Property adequate and proper access to and from US Highway 278. It is specifically agreed and understood notwithstanding anything to the contrary herein, construction traffic and construction suppliers are prohibited from utilizing this easement for access to or from the Property. Owner shall be responsible to place signs directing all construction traffic and construction suppliers going to the Property to only use Kensington Boulevard as shown on the Plat, and to insert provisions within construction contracts specifying the allowable access route.

(b) Perpetual non-exclusive right for vehicular and pedestrian access over and across Kensington Boulevard from its intersection with Buck Island Road to its intersection with the Property.

(c) Permanent, non-exclusive easement for Owner's directional signs, as approved by Declarant pursuant to the provisions herein, at the approximate locations shown as follows on the Plat:

1. At the intersection of the east right-of-way of Buck Island Road and Kensington Boulevard; the easement for this sign shall not be relocatable;

2. At the southwest corner of Kensington Boulevard and Westbury Park Way; this easement can be relocated provided that the relocated directional sign easement must afford adequate and proper directions to the Property from US Highway 278 and Buck Island Road; and

3. At the northwest corner of the intersection of Arley Way and Westbury Park Way; this easement can be relocated provided that the relocated directional sign easement must afford adequate and proper directions to the Property from US Highway 278.

(d) Permanent, Non-Exclusive Twenty-Five Foot (25') Storm Drain Easement as more fully shown on the Plat.

(e) A Five Foot (5') Utility Easement (measured from the center line of buried utility cables and lines) on each sides of said buried utility cables and lines within the rights-of-way of Kensington Boulevard for the purpose of installing, maintaining, repairing, replacing and/or relocating when necessary any utility lines providing utilities to the Property.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ARTICLE VIII

ASSESSMENTS

8.01 The Owner, its successors or assigns (but not tenants), by accepting a Deed to the Property is deemed to covenant and agree to pay an assessment ("Assessment") to Declarant, or its assigns on an annual basis the sum of $17,500.00 as its share of the costs for maintenance of the Required Streets and landscaping along the Required Streets and around and within parks within the Westbury Park Residential Area and the Westbury Park Commercial Area. This Assessment shall become due and payable on February 1 of each year and if not paid shall bear interest at the rate of ten percent (10%) per annum until paid. The reasonable care and replacement of the Required Streets and landscaping within the Westbury Park Residential Area shall remain the responsibility of the Westbury Park Residential Owners Association, Inc., and the reasonable care and replacement of the Required Streets and landscaping within the Westbury Park Commercial Area shall remain the responsibility of the Westbury Park Commercial Center Property Owners Association, Inc.

8.02 The Assessment as set forth hereinabove shall commence on January 1, 1999, be adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers, All Items (Base Year 1982-1984 = 100) published by the United States Department of Labor, Bureau of Labor Statistics, all city average. Under no circumstances will the Annual Assessment fall below the minimum of $17,500.00 per year.

8.03 The Assessment shall, if not paid within thirty (30) days of its due date, constitute a lien against the Property until paid. The lien shall also secure payment of interest, late charges (subject to the limitations of South Carolina Law) and costs of collection (including attorney and paralegal fees). Such lien shall be superior to all other liens, except: (a) the liens of all taxes, bonds, Assessments and other levies which by law would be superior, and (b) the lien or charge of any first priority mortgage of record made in good faith and for value. Notwithstanding the foregoing to the contrary, the subordination of the Assessment lien to the lien of any first priority mortgage of record shall only apply to such Assessments which have become due and payable prior to foreclosure. Any mortgagee who acquires title to the Property by foreclosure shall be liable for Assessment thereafter becoming due. All other persons acquiring liens or encumbrances on the Property after this Declaration shall have been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances.

ARTICLE IX

TERM, TERMINATION, MODIFICATION AND ASSIGNMENTS OF DECLARANT'S RIGHTS AND DUTIES

9.01 Term: This Declaration, every provision hereof and every covenant, condition and restriction contained herein shall continue in full force and effect for a period of twenty (20) years from and after the date of recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. This Declaration may

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

be renewed for an unlimited number of successive ten (10) year periods by the Declarant, its successors or assigns filing a notice of extension with the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina prior to the expiration of any term.

9.02 Termination and Modification: This Declaration, or any provision hereof, or any covenant, condition or restriction contained herein, may only be terminated, extended, modified or amended, as to the whole of said Property or any portion thereof by the Declarant and Owner jointly. No such termination, extension, modification, or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the Office of the Register of Mesne Conveyance for Beaufort County, South Carolina. No such termination, extension, modification or amendment shall be in violation of County requirements and/or ordinances.

9.03 Assignments of Declarant's Rights and Duties: Any or all of the rights, powers and reservations of Declarant herein may be assigned to any person, corporation or association which will assume the duties of Declarant pertaining to the particular rights, powers and reservations assigned, and upon any such person, corporation or association evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignments, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. The term "Declarant" as used herein includes all such assignees and their heirs, successors and assigns.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.01 Constructive Notice and Acceptance: Every person who now owns or acquires any fee simple title in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said property.

10.03 Paragraph Headings: Paragraph headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular paragraphs to which they refer.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

10.04 Effect of Invalidation: If any provision of this Declaration is held to be invalid by any final judgment in a contested judicial proceeding the invalidity of such provision shall not affect the validity of the remaining provisions hereof and the same shall remain in full force and effect.

WITNESSES:

Karen B Murphy

PLANTATION PROPERTIES, L.L.C.

By: James N. Richardson, Jr.
Its: Managing Member

Attest:

By: William W. Jones, Jr.
Its: Member

Buck Island, L.L.C. joins in this Declaration for the sole purpose of confirming the easements granted in Paragraphs 7.02(a) and 7.02(c)(3), and for no other purposes whatsoever.

WITNESSES:

Karen B. Murphy

BUCK ISLAND, L.L.C.

By:
Its: MANAGING PARTNER

Attest:

By: William W. Jones, Jr.
Its: Member

Westbury Record on Appeal 0457

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PROBATE

PERSONALLY appeared before me the undersigned witness, who, on oath; says that s/he saw the within named PLANTATION PROPERTIES, L.L.C., by its appropriate officers, sign and seal the within written instrument, and as its act and deed deliver the same, and that s/he with the other witness, whose signature appears above, witnessed the execution thereof.

Karen B. Murphy

SWORN TO before me this 10th
day of November, 1998

Notary Public for South Carolina
My Commission Expires: Oct 19, 2003

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PROBATE

PERSONALLY appeared before me the undersigned witness, who, on oath; says that s/he saw the within named BUCK ISLAND, L.L.C., by its appropriate officers, sign and seal the within written instrument, and as its act and deed deliver the same, and that s/he with the other witness, whose signature appears above, witnessed the execution thereof.

Karen B. Murphy

SWORN TO before me this 10th
day of November, 1998

Notary Public for South Carolina
My Commission Expires: Oct 19, 2003

ST. 2-A:DISK#5\PALMETTO.COV

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

EXHIBIT "A"

Legal Description

ALL that certain piece, parcel or tract of land lying and being in Bluffton Township, Beaufort County, South Carolina, containing 20.00 acres, more or less, shown and described on that certain plat entitled "ALTA/ASCM Land Title Survey of 20.00 Acre Parcel, Westbury Park, A Section of Block X-1, A Portion of Rose Hill P.U.D., Bluffton Township, Beaufort County, South Carolina" prepared by Terry G. Hatchell, SCRLS #11059 of Surveying Consultants, dated October 7, 1998, revised on October 28, 1998, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 67, page 118 ("Plat") ("Property"). For a more detailed description, reference is made to said Plat of record.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

2346 JSP

FILED
JOHN A. SULLIVAN - RMC
BEAUFORT COUNTY, S.C.
98 NOV 12 PM 12:20

BK 1106 PG 1225
FOLDER#

1238

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

THE ESTATE AT WESTBURY
A CONDOMINIUM

Present:
Louise Haaker – President
Aldo Roccisano-Treasurer
Jaziel Green - Association Manager

Absent:
Jose Fuentez – Vice President

- **Meeting Called to order 12/11/2010 at 2:00 PM-Louise Haaker**

- **President Haaker opened the meeting.**

Budget: Reserve funds are secured with CD's invested locally.
Regime fees have been increased minimally and that was unavoidable due to unit foreclosures, tardy payments, inflationary cost of supplies and unanticipated shortfalls in revenues. Budgeted contracts are reviewed annually to ascertain the best prices.
No special assessments are anticipated at this time.
HOA Property Manager Jaziel Green was commended for her six years of continuous service.
Owners were encouraged to make their management company and/or tenants aware of the regulations applied to the property and enforced by the property manager.

Updates presented by Association Manager:

- **Utility Billing Information Requested by Board President**

A review of our costly third-party water billing service resulted in the HOA taking over the billing service. This will be implemented in the first quarter 2011. Owners were informed of this change in a separate notice which went out with 2011 budgetary information. It was noted that water/sewer costs and to whom the bill is sent (tenant or owner) will not be changed. Elimination of the 3rd party billing service will omit their related inspection charges which will be done in-house by HOA employees and we should be able to pass that savings on. **The Hoa office will notify all owners when any changes are to happen, until then water bills should be paid as usual to UBS until further notice.** Regardless of how or to whom the bill is sent, ultimately it is the responsibility of the unit owner for the cost of water/sewer service.

- **Proposed Back Gate Entrance**

Westbury Record on Appeal 0461

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury Community has approached the Estates at Westbury to consider their offer to construct a back entrance and gate to the Estates, citing their perceived benefits to our community. The board noted the negative aspects far outweighed any benefits.

1. We presently have a positive selling/renting point to enter the Estate community through a private, peaceful, attractive residential neighborhood. We are the "Hidden Jewel of Bluffton" because we are hidden from the main highway and aligned with a quiet residential neighborhood. A back gate will not enhance this.
2. A back gate may attract unwanted pedestrian visitors to the community from other properties that have a high incidence of crime in the Bluffton area from Simmonsville Road, substantiated by police reports.
3. Estate will experience increased community through-traffic generated from the Westbury Community seeking a fast approach to Highway 278. As it is now, we have cars backing out from unit parking spaces onto the community roadway.
4. Units directly at the back gate will suffer loss of tranquility, privacy, vehicle noise and possible reduction in property values.
5. Additional reliance on maintenance and upkeep of a new gate based on our historical insufficient management of the current gates.
6. Continued payments to Westbury Community to enter through the present Kensington Blvd. for which we pay $89,000+ annually even with construction of a new gate.

The matter has not been resolved and at the suggestion of the Beaufort County Planning Commission, talks are ongoing. Homeowners will be included in any final decision.

- **Southern State Management (SSM)**

As a result of the day-to-day monitoring of the in-house rental management company (SSM) by the HOA manager, the board was made aware of complaints from owners regarding their performance and management of the units under their rental control. SSM was given notice to correct the matter which could impact renewal of their annual contract. SSM advised the Board in all earnest of their efforts to address concerns. The Board and Association manager will monitor their services and is open to comments from owners using SSM services. Comments or concerns should be addressed to Jaziel Green at jaziel@theestateatwestbury.com The matter was tabled.

- **Exterior repairs of certain building.**

In accordance with our attorney, contracts have been made with an architect and staff engineer to assess the construction damages due to poor workmanship of the original developer. Additional information will be provided as the matter develops. In the interim all buildings are stable.

Respectfully submitted,

Jaziel Green

Home Owners Association Manager
Approved by Louise K. Haaker, President

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

THE ESTATE AT WESTBURY
A CONDOMINIUM

Open Board Meeting
December 11th

Board Members In Attendance

Louise Haaker-President

Aldo Roccisano-Treasure

Jose Fuentez-Absent

Association Manager

Jaziel Green-Present

Home Owners in attendance:

1. Janet Belle Isle 604
2. Jim McGill 1302
3. Tom Oglesby 819
4. Jan Buchanan 701
5. Jerilyn L. Lawrence 1515
6. Beverley Adams 1214
7. Robert Tan 1401/406
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____

Meeting

From: nagycr@att.net 12/10/10 20:26
To: jaziel@theestateatwestbury.com

Sure wish I could be in Bluffton for this meeting with my list of concerns.

1. Do we have enough of Staff to handle the up keep of our community?

2. Regarding the landscape on the property I would like to see more attention to replacing dead shrubs and pulling weeds around the condo's for
better eye appeal and apperance.

3. Absentee owners (Investors) be made more responsible for the appearance of their condos with regard to broken blinds and what their tenant
keeps on the patio's.

4. Replacing patio chairs and lounges with strap furniture for easy maintenace around the pool area.

5. Partime staff on weekends to oversee the property.

6. I agree with the board regarding a back gate that is not needed unless we are told by Beaufort County.

7. Jaziel and her staff are doing their best with the community. I beleive a community needs to have a Strong HOA and Board Members to maintain
a Quality Community to live in or invest in.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury 103

From: "Thomas J. Fair" <tfair8@verizon.net> 12/13/10 08:19
To: "'Jaziel'" <jaziel@theestateatwestbury.com>
Cc: TFAIR8@VERIZON.NET

Good morning Jaziel-

Hope you had a nice weekend.

I am planning on being at Westbury tomorrow Tuesday Dec 14th afternoon arriving around 2:30 – 3pm-
I would like obtain a key for our unit from you-
- I will pay you the ($12.00) I think you said-

I am planning on being in and out of the unit during the day Tuesday, Wednesday, Thursday and Friday

Thank you.

Best Regards,
Tom
Thomas J. Fair
Direct Line: 508 259 1071
Email: tfair8@verizon.net

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Board Meeting

From: "Deb Schumann" <compugal@charter.net> 12/10/10 18:35
To: "Jaziel" <jaziel@theestateatwestbury.com>

I regret I can't attend. As an interested owner, I am glad to be given the opportunity. Perhaps with more notice in the future, I can plan on being around. Regardless, I'd like to make a few comments/suggestions.

1. I applaud Jaziel for her actions regarding the proposed new gate. From what I can understand, it makes little sense to do this and could cause our community even more grief. I agree that the current control of the gate leaves much to be desired. I haven't been able to get through the entrance near Publix for months and yet, I have never been behind someone with a number code who can't get through. It's been very frustrating, and makes me wonder why? I do believe though that we should be able to withhold payment because even if we aren't paying for the gate itself, we play for the "privilege" of using their roads(are they private?) and we can't use part of their roads if we can't get in that side gate. I might suggest all owners be encouraged to contact that group/person in charge regularly to voice their frustration.

2. I also applaud the board/Jaziel for sticking to the HOA fee scale as stated in the original covenants. I purposely purchased the size I did because I couldn't afford the higher amounts for larger condos. I don't think it's fair to expect smaller condos to subsidize larger ones. I don't yet know what next year's payment will be, but I was glad to see the decrease, especially since an owner in the Westbury housing community itself told me she pays $100 a year for all services-and she has an entire house.

3. I'd like to know if anyone has put in a screened in "porch" yet. I'd like to see how it looks and get an idea of the total cost. I'm glad to see this option, although I can't finance such an improvement at the current time.

4. The back gutters are in strong need of cleaning out. The drain closest to my unit is still broken/ or has been damaged again.

5. As a long distance owner, I'd like to have someone on staff I could ask to check on things for me (ie enter my apt. with my permission)-maybe 2 times a year if requested.

6. I really think we should install some security cameras near the pool area and garbage area. I haven't used the pool in a year because trying to enjoy it was nigh impossible due to the large number of infractions I witnessed the first time: a dog was running around (its owners clearly in the pool area-telling everyone to keep the gate closed so the dog wouldn't get out!); non/residents were drinking beer around the pool deck; children were in the hot tub when it was working*/not (*which seemed to be seldom); loud music was being played. Realistically, such behaviors are hard to control, if not impossible, but perhaps the threat of being "caught at it" along with the infraction list and fines I saw this past year, might help deter some if it, or make it easier to respond to. The garbage area camera might help deter illegal dumping.

7. Managing a community is no easy task, and I appreciate the work you try to do. Thanks!

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

condo #704

From: "frances brechemin" <franno@shentel.net> 12/12/10 16:53
To: "Jaziel" <jaziel@theestateatwestbury.com>

Hi Jaziel. having a problem with the kids in 704. There are about 10 kids yelling and fighting in front of condo. I ask them to knock it off but that was a waste of time. The tall kid about 17 is throwing the small kids against the van parked in front. Someone is going to get hurt. I thought they moved out. Guess not. If it keeps up I'm calling the cops. Its about 5pm. This is just for your info. ...Thanks...Fran

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Home Owners Meeting

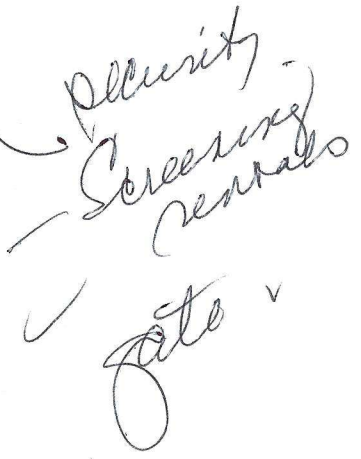
From: "Dave & Mary Gauvin" <mdgauvin@cox.net> 12/08/10 19:45
To: "Jaziel Green" <jaziel@theestateatwestbury.com>

Dave & Mary Gauvin
100 Kensington blvd
Unit 1108
Bluffton SC 29910

Re:Annual Meeting

Jaziel, thank you for the notice of the annual meeting. Mary & I cannot attend this year, but we do have a few comments. 1. the increase in condo fee's is fine as long as it is used to aid in the upkeep of the property. We were down for a couple of weeks prior to thanksgiving. We noticed that the wood trim and siding on many units needed a good cleaning. as well as grounds up keep. times are tough and things need to be addressed. 2. we also notice since we are not there all the time the different influx of renters. for the most part all was OK, however there was more loud music coming from cars driving through as well as from individual units. As well as some tenants think it is a speedway through the complex. Also Mary was awoke one night around 3:30 am to an SUV driving between the condo's near the lagoon and 2 men got out and began urinating out side. She was afraid to say anything at the time. The complex has great potential and generally a very nice place to live. Maybe the rental process can be a little more stringent, to control who is granted the privilege of living in the Estate at Westbury. I have also read some unflattering blogs and articles about the complex. I also have heard remarks from people I play golf with telling me that it is where a lot of the local crime comes from. Lucky I only believe only half of what I hear. I do enjoy the time we spend there and look forward to when we retire and live there full time.Our comments are only out of concern for the betterment of our community. Bluffton is a great place to live and so is the Estate at Westbury. We also know that you work very hard to keep everything under control keep up the good work.

Sincerely,
Dave & Mary Gauvin



ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

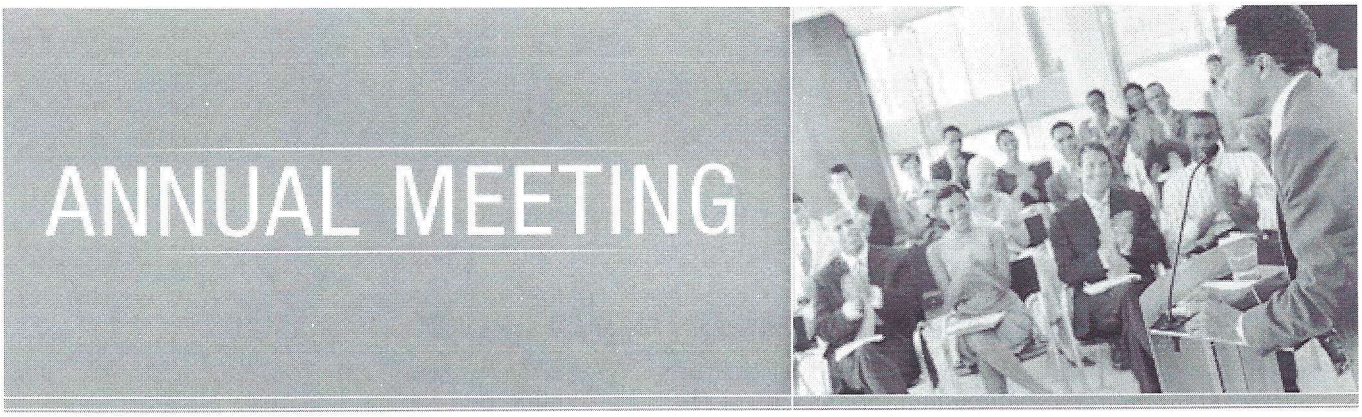
Re: 1305

From: "Kim Dorr" <kdorr25@yahoo.com> 12/10/10 10:33
To: jaziel@theestateatwestbury.com

Happy Holidays my friend!!! I am working Sat night and will not be able to attend meeting this year. Thank you for doing such a great job as our manager!! I am happy road will not be built, that was ridiculous, especially after I read how much Westbury receives for use of the private gate(80,000?)..I do not have any complaints, just wish our condos were marketable!
Thank you for all you do, Merry Christmas,
xoKim

--- On **Wed, 12/8/10, Jaziel Green** ***<jaziel@theestateatwestbury.com>*** wrote:

From: Jaziel Green <jaziel@theestateatwestbury.com>
Subject: The Estate at Westbury eMail Bulletin
To: "Kimberly A. Dorr" <kdorr25@yahoo.com>
Date: Wednesday, December 8, 2010, 12:32 PM



Open Board Meeting
December 11th Saturday

Time: 2:00-4:00
Place:The Estate Clubhouse

PLEASE REMEMBER TO RSVP

Office number: 843 706-4763 or jaziel@theestateatwestbury.com

The Board of Directors and I encourage owners to attend this meeting to address any questions regarding the 2011 budget as well as any concerns regarding the Association. If you are an owner who can not attend but has a question or concern you may send to me at

Dec. 11 meeting

From: "bub" <crostalt@mindspring.com> 12/09/10 10:29
To: jaziel@theestateatwestbury.com

Jaziel,

We are unable to attend the meeting on Saturday. We would like to take this time to thank the board for keeping expenses and regime fees low. We are hoping that 2011 will see Bluffton and the economy bouncing back.

As for the gate situation, we still do not know enough about this but agree with the overall idea in your letter that the current gates have enough problems. Therefore another gate will only make the problem worse. We would like to read more about this just so that if owners are asked to get involved we can make an informed decision. Is there a web-site where we can read about this?

Thank you in advance and happy holidays,

Warren and Amy Johnson (609, 712, and 1210)

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

THE ESTATE AT WESTBURY
A CONDOMINIUM

November 23rd 2010

All Checks must have your account # to insure accurate deposits
Payable to: The Estate at Westbury-P.O. Box 11903-Newark, NJ 07101-4903

Greetings, Edward M Fahy

This has been a hectic year for all with the economy and employment situations affecting every family. Due to prudent management of the property, operations and guidance from the Board, the finances at The Estate at Westbury community have remained stable and our property services are at a high level of quality. We commend our management team and all employees on the property for the dedication and reliability.

Our reserve fund is specifically dedicated to replace and/or update the infrastructure concerns which are so vital to insure property value and keep pace with the Bluffton community. We are addressing on-going exterior maintenance of our buildings particularly with the aging of the community. These are expected concerns and your Board is prepared to address these matters in a timely manner. We do not anticipate the need for any special assessments at the present time.

Regime fees: These fees are an integral part of our community revenues. Last year we experienced unpaid regime fees due to delinquencies, foreclosures and property liens. Changes are modest for the 2011 year. In accordance with the condo documents, the percent of expenses is based on the square footage of each unit which is in proportion of the total community. The percent's are established in the condo documents.

Number and Type of Unit	Percent of Community Expense	Basic Home Owners Association Dues	Add this amount for a garage	Add this amount for a storage unit
36 - 1 bedroom -S	0.1983	$105.36	$33.22	$8.30
36 - 1 bedroom-M	0.2274	$120.82	$33.22	$8.30
20 - 1 bedroom loft	0.2958	$157.16	$33.22	$8.30
180 - 2 bedroom	0.3275	$174.00	$33.22	$8.30
48 - 3 bedroom	0.4114	$218.57	$33.22	$8.30

Coupon books for monthly regime fees have been discontinued. A majority of our owners do not use them, but choose to have a direct payment made through their bank or send a payment with their notation of the unit clearly marked on the payment. Therefore, we have eliminated the cost of printing and postage for coupon books. However, if you desire a tear sheet with designated months to include with your payment, this can be supplied by contacting Jaziel and we will accommodate you. Please remember dues are payable the 1st of each month and will have a late fee of $40 if received after the 15th. Please make your payment in a timely manner, for your conveyance we have added address labels.

Open Board Meeting is scheduled for:
Saturday, December 11, 2010
Place: The Estate Club House
From: 2:00pm to 4:00pm.
Please RSVP to Jaziel 843-706-4763, email: Jaziel@theestateatwestbury.com
The budget will be discussed as well as any concerns you may have. See you there!
From your Board of Directors and Jaziel Green, Association Manager
The Estate at Westbury - 85 Kensington Blvd., Bluffton, SC 29910

		2010 APPROVED BUDGET		2011 APPROVED BUDGET	
		MONTHLY	ANNUAL	MONTHLY	ANNUAL
INCOME:			0		0
Regime Fees		48,266.11	579,193.32	53,096.57	637,158.88
Garage Fees - 35 Garages $9/mo		0.00	0.00	0.00	0.00
Storage Fees 44 Storages $2.25/mo		0.00	0.00	0.00	0.00
Late Fees		1,400.00	16,800.00	1,400.00	16,800.00
Working Capital		350.00	4,200.00	350.00	4,200.00
	0	0.00	0.00	0.00	0.00
	0	0.00	0.00	0.00	0.00
SUBTOTAL INCOME		50,016.11	**$ 600,193.32**	54,846.57	**$ 658,158.88**
	0	0.00	0.00	0.00	0.00
OTHER INCOME		0.00	0.00	0.00	0.00
Corporate Suite Rent		700.00	8,400.00	992.25	11,907.00
Screening Fee Income		200.00	2,400.00	102.00	1,224.00
Keys, Locks		250.00	3,000.00	347.25	4,167.00
Cable Revenue		700.00	8,400.00	719.40	8,632.80
Utility Reimbursement		7,500.00	90,000.00	6,982.70	83,792.40
Misc. Income		28.00	336.00	166.25	1,995.00
Soda Machine Income		11.00	132.00	8.25	99.00
Admin Fees		0.00	0.00	6.25	75.00
NSF Fees		0.00	0.00	5.00	60.00
Clubhouse Rental		25.00	300.00	25.00	300.00
Website Revenue		80.00	960.00	19.00	228.00
Washer/Dryer Income		25.00	300.00	4.50	54.00
Tenant Violation/Fines		120.00	1,440.00	122.00	1,464.00
Interest Income		230.00	2,760.00	16.00	192.00
Interest Income Capital		350.00	4,200.00	175.00	2,100.00
Transfer to Capital Reserve		(4,175.00)	(50,100.00)	(6,754.23)	(81,050.76)
Transfer from Capital to Operating		1,085.00	13,020.00	986.00	11,832.00
CD Maturity		450.00	5,400.00	210.00	2,520.00
SUBTOTAL OTHER INCOME		7,579.00	**$ 90,948.00**	3,957.62	**$ 47,491.44**
	0	0.00	0.00	0.00	0.00
TOTAL INCOME		57,595.11	**$ 691,141.32**	58,804.19	**$ 705,650.32**
	0	0.00	0.00	0.00	0.00
	0	0.00	0.00	0.00	0.00
EXPENSES:		0.00	0.00	0.00	0.00
	0	0.00	0.00	0.00	0.00
PAYROLL EXPENSES		0.00	0.00	0.00	0.00
Salary Expense		11,612.92	139,355.04	9,676.83	116,121.97
Group Health Insurance		360.00	4,320.00	360.00	4,320.00
	0	0.00	0.00	0.00	0.00
TOTAL PAYROLL		12,027.92	**$ 144,335.04**	10,324.23	**$ 123,890.77**
	0	0.00	0.00	0.00	0.00
UTILITIES		0.00	0.00	0.00	0.00
Electric - House		3,500.00	42,000.00	3,260.00	39,120.00
Water		2,560.00	30,720.00	3,154.00	37,848.00
Sewer		4,400.00	52,800.00	4,851.00	58,212.00
Gas Utilities		100.00	1,200.00	10.00	120.00
Telephone		670.00	8,040.00	602.00	7,224.00
Trash Removal		1,400.00	16,800.00	2,053.00	24,636.00
	0	0.00	0.00	0.00	0.00
TOTAL UTILITIES		12,630.00	**$ 151,560.00**	13,930.00	**$ 167,160.00**
	0	0.00	0.00	0.00	0.00

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

MAINTENANCE EXPENSES		0.00		0.00		0.00	0.00
Fountain Mo Service		168.94		2,027.28		170.00	2,040.00
Plumbing Contract		50.00		600.00		155.00	1,860.00
Electric Contract		50.00		600.00		1,000.00	12,000.00
Pool Contract Repairs/Maintenance		50.00		600.00		400.00	4,800.00
Cleaning Supplies		20.00		240.00		3.50	42.00
Building Maintenance & Repairs		0.00		0.00		1,000.00	12,000.00
Pool Service Contract		210.00		2,520.00		650.00	7,800.00
Grounds Maint, Elec, Pl, Driv, Comm		1,100.00		13,200.00		2,342.00	28,104.00
Golf Cart Maint		100.00		1,200.00		111.37	1,336.44
Gate Repairs & Entrance Cards		55.00		660.00		110.00	1,320.00
Gym Equipment Repairs		50.00		600.00		50.00	600.00
Garage Door Maint		0.00		0.00		0.00	0.00
		#REF!		#REF!		#REF!	#REF!
Exterminating & Termite Bond		966.00		11,592.00		967.00	11,604.00
Landscape Contract		1,500.00		18,000.00		2,400.00	28,800.00
Flowers- Pine Straw-Sod		500.00		6,000.00		500.00	6,000.00
Landscape Improvement		0.00		0.00		228.00	2,736.00
Monitoring/Batt/Ann Exting-bld exp		1,250.00		15,000.00		625.00	7,500.00
Courtesy Officer		300.00		3,600.00		0.00	0.00
TOTAL MAINTENANCE		6,869.94		**$ 82,439.28**		11,411.87	**$ 136,942.44**
	0	0.00		0.00		0.00	0.00
G & A EXPENSES		0.00		0.00		0.00	0.00
Admin & General		165.00		1,980.00		165.00	1,980.00
Coupons		110.00		1,320.00		0.00	0.00
Computer Expense		25.00		300.00		70.00	840.00
Office Equipment Rental		13.00		156.00		10.40	124.80
Licenses & Permits		80.00		960.00		137.00	1,644.00
Master Assoc. Dues increase?		7,488.00		89,856.00		7,488.00	89,856.00
Clubhouse Food & Drink		25.00		300.00		66.00	792.00
Bank Charges		0.00		0.00		0.00	0.00
Office Supplies		125.00		1,500.00		146.00	1,752.00
Postage		83.00		996.00		127.00	1,524.00
Credit Services		95.00		1,140.00		52.00	624.00
Property Insurance		15,450.00		185,400.00		10,482.42	125,789.04
Audit Fee		0.00		0.00		89.00	1,068.00
Legal Expense		400.00		4,800.00		380.00	4,560.00
Property Management increase?		1,453.00		17,436.00		1,490.00	17,880.00
Resident Activities		0.00		0.00		0.00	0.00
Signs/Banners		0.00		0.00		50.00	600.00
	0	0.00		0.00		0.00	0.00
TOTAL G & A EXPENSES		26,097.00		**$ 313,164.00**		22,184.82	**$ 266,217.84**
	0	0.00		0.00		0.00	0.00
TOTAL EXPENSES		57,624.86		**$ 691,498.32**		58,836.92	**$ 706,043.05**
		0.00				0.00	
	0	0.00		0.00		0.00	0.00
NET EXCESS (DEFICIT)		**$ (29.75)**		**$ (357.00)**		**$ (32.73)**	**$ (392.73)**
	0			0			0

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

1/18/2011

Westbury Park ROA
C/O Kevin Farruggio, Vice President
4454 Bluffton Park Crescent, Suite 107
Bluffton, SC29910

Response to proposal of back entrance for The Estate at Westbury community

The Estate at Westbury Home Owners Association (HOA) Board of Directors has reviewed your recent proposal dated December 6, 2010 and after carful considerations of all point on both sides have unanimously agreed that they are not interested in the offer proposed for the back entrance.

The Board of directors also openly discussed this issue at a recent open board meeting in which the general consensus was opposed to the back entrance.

We appreciate the consideration and thought that has been taken regarding this issue. Any further communication or questions regarding this issue should be directed to my office at 706-4763 or by email at jaziel.estate@hotmail.com.

Respectfully,

Jaziel Green
Association Manager

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

THE ESTATE AT WESTBURY
A CONDOMINIUM

Present:
Louise Haaker – President
Aldo Roccisano-Treasurer
Jaziel Green - Association Manager

Absent:
Jose Fuentez – Vice President

- **Meeting Called to order 12/11/2010 at 2:00 PM-Louise Haaker**

- **President Haaker opened the meeting.**

Budget: Reserve funds are secured with CD's invested locally.
Regime fees have been increased minimally and that was unavoidable due to unit foreclosures, tardy payments, inflationary cost of supplies and unanticipated shortfalls in revenues. Budgeted contracts are reviewed annually to ascertain the best prices.
No special assessments are anticipated at this time.
HOA Property Manager Jaziel Green was commended for her six years of continuous service.
Owners were encouraged to make their management company and/or tenants aware of the regulations applied to the property and enforced by the property manager.

Updates presented by Association Manager:

- **Utility Billing Information Requested by Board President**

A review of our costly third-party water billing service resulted in the HOA taking over the billing service. This will be implemented in the first quarter 2011. Owners were informed of this change in a separate notice which went out with 2011 budgetary information. It was noted that water/sewer costs and to whom the bill is sent (tenant or owner) will not be changed. Elimination of the 3rd party billing service will omit their related inspection charges which will be done in-house by HOA employees and we should be able to pass that savings on. **The Hoa office will notify all owners when any changes are to happen, until then water bills should be paid as usual to UBS until further notice.** Regardless of how or to whom the bill is sent, ultimately it is the responsibility of the unit owner for the cost of water/sewer service.

- **Proposed Back Gate Entrance**

Westbury Record on Appeal 0477

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury Community has approached the Estates at Westbury to consider their offer to construct a back entrance and gate to the Estates, citing their perceived benefits to our community. The board noted the negative aspects far outweighed any benefits.

1. We presently have a positive selling/renting point to enter the Estate community through a private, peaceful, attractive residential neighborhood. We are the "Hidden Jewel of Bluffton" because we are hidden from the main highway and aligned with a quiet residential neighborhood. A back gate will not enhance this.
2. A back gate may attract unwanted pedestrian visitors to the community from other properties that have a high incidence of crime in the Bluffton area from Simmonsville Road, substantiated by police reports.
3. Estate will experience increased community through-traffic generated from the Westbury Community seeking a fast approach to Highway 278. As it is now, we have cars backing out from unit parking spaces onto the community roadway.
4. Units directly at the back gate will suffer loss of tranquility, privacy, vehicle noise and possible reduction in property values.
5. Additional reliance on maintenance and upkeep of a new gate based on our historical insufficient management of the current gates.
6. Continued payments to Westbury Community to enter through the present Kensington Blvd. for which we pay $89,000+ annually even with construction of a new gate.

The matter has not been resolved and at the suggestion of the Beaufort County Planning Commission, talks are ongoing. Homeowners will be included in any final decision.

- **Southern State Management (SSM)**

As a result of the day-to-day monitoring of the in-house rental management company (SSM) by the HOA manager, the board was made aware of complaints from owners regarding their performance and management of the units under their rental control. SSM was given notice to correct the matter which could impact renewal of their annual contract. SSM advised the Board in all earnest of their efforts to address concerns. The Board and Association manager will monitor their services and is open to comments from owners using SSM services. Comments or concerns should be addressed to Jaziel Green at jaziel@theestateatwestbury.com The matter was tabled.

- **Exterior repairs of certain building.**

In accordance with our attorney, contracts have been made with an architect and staff engineer to assess the construction damages due to poor workmanship of the original developer. Additional information will be provided as the matter develops. In the interim all buildings are stable.

Respectfully submitted,

Jaziel Green

3/10 RB Launch 6511

WC

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PALMETTO LAKES APARTMENTS AT WESTBURY PARK

This Amendment to Declaration of Covenants, Conditions, Restrictions and Easements is effective as of the 1st day of November 2005 (the "Effective Date") by and between Plantation Properties, L.L.C., a South Carolina limited liability company ("Declarant"), and Montecito Westbury, LLC ("Owner"), and amends that certain Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park (the "Declaration") dated November 10, 1998 and recorded in the Office of the Register of Mesne Conveyance for Beaufort County, South Carolina, in Book 1106 at Page 1225, as follows:

1. The following sentence shall be inserted at the end of Section 5.01: "Notwithstanding the foregoing, nothing herein shall be interpreted or applied to prohibit or limit the conversion of the Property to the condominium form of ownership or use of the Property for condominiums."

2. The following sentence shall be inserted at the end of Section 5.02(a): "Notwithstanding the foregoing, nothing herein shall be interpreted or applied to prohibit or limit the conversion of the Property to the condominium form of ownership."

3. The following shall be inserted as new Section 7.02(f): "Owner, its successors and assigns, Owner's tenants, all guests and invitees of such tenants/owners shall not have use rights or easement access to the Westbury Park Residential Area amenities, including parks, swimming pools and pool houses.

4. The first two sentences of Section 8.01 shall be deleted and, the following sentences shall be inserted at the beginning of Section 8.01. "The Owner, its successors or assigns, by accepting a Deed to the Property is deemed to covenant and agree to pay an assessment ("Assessment") to Declarant, or its assigns on a monthly basis in the amount of $7,200 as its share of the costs for maintenance of the Required Streets and landscaping along the Required Streets and around and within parks within the Westbury Park Residential Area and the Westbury Park Commercial Area. This assessment shall become due and payable on the 15th day of each month, and if not paid shall bear interest at the rate of ten percent (10%) per annum until paid. In the event the Owner converts the Property to the condominium form of ownership, the resulting condominium association shall have the obligation to collect adequate funds from the individual unit owners and pay the Assessment directly to the Declarant."

5. Section 8.02 shall be deleted and the following sentence shall be inserted at the beginning of Section 8.02. "The Assessment as set forth hereinabove shall commence on January 1, 2006, and shall be adjusted annually to reflect changes in the Consumer Price Index for all urban Consumers, All Items (base year 1982-1984=100) published by the United States Department of Labor, Bureau of Labor Statistics, all city average. Under no circumstance will the Annual Assessment fall below the minimum of $86,400.00 per year."

BEAUFORT COUNTY SC- ROD
BK 02269 PGS 1997-1999
DATE: 11/16/2005 10:36:01 AM
INST # 2005097730 RCPT# 376572

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

6. The following is added as a new Section 8.04: "For the calendar year in which the Property is converted to the condominium form of ownership ("Conversion"), the Owner shall be responsible for the Assessment prorated to, but not including, the date of Conversion. In the calendar year in which the Conversion occurs, the owner of each condominium unit shall only be responsible for its prorata share of the Assessment, such proration being in accordance with The Horizontal Property Act of South Carolina, applicable from and including the date of Conversion to the remainder of such calendar year. Subsequent to the calendar year in which Conversion occurs, the owner of each condominium unit shall only be responsible for its prorata share of the Assessment, in accordance with The Horizontal Property Act of South Carolina. Otherwise, the provisions of Article VIII of the Declaration shall apply."

7. Declarant warrants and represents to Owner that Declarant has not assigned any of its rights of enforcement or modification under the Declaration.

8. All terms not defined herein shall have their assigned meaning in the Declaration.

In all other respects, the Declaration is hereby ratified and confirmed.

IN WITNESS WHEREOF, Declarant and Owner have caused this instrument to be executed as of the Effective Date.

WITNESS:

Nora Aguilar

WITNESS:

Name: JANET A. SMITH

DECLARANT:

PLANTATION PROPERTIES, L.L.C.

By:

Name: James N. Richardson, Jr.
Title: Managing Member

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

PROBATE

PERSONALLY appeared before me the undersigned witness, who, on oath; says that s/he saw the within named PLANTATION PROPERTIES, L.L.C., by its appropriate member, sign and seal the within written instrument, and as its act and deed deliver the same, and that s/he with the other witness, whose signature appears above, witnessed the execution thereof.

JANET A. SMITH

SWORN TO before me this 27 day of October, 2005

Notary Public for South Carolina
My Commission Expires: 8-8-2011

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

OWNER:

WITNESS:

MONTECITO WESTBURY, LLC, a Delaware limited liability company

Name: Julie L. Douglass

By: James B. Porter

Name: James B. Porter

Title: Vice President

Carolyn K. Cloud

STATE OF FLORIDA)
)
COUNTY OF DUVAL)

PROBATE

PERSONALLY appeared before me the undersigned witness, who, on oath; says that s/he saw the within named MONTECITO WESTBURY, LLC by the appropriate officer of its appropriate partner, sign and seal the within written instrument, and as its act and deed deliver the same, and that s/he with the other witness, whose signature appears above, witnessed the execution thereof.

Julie L. Douglass

Carolyn K. Cloud

SWORN TO before me this 1st day of November, 2005

Julie L. Douglass

Notary Public for Florida

My Commission Expires: _____

JULIE L. DOUGLASS
Notary Public - State of Florida
My Commission Expires Sep 4, 2006
Commission # DD 147746

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

BEAUFORT COUNTY SC - ROD
BK 3709 Pgs 3041-3047
FILE NUM 2018057667
10/23/2018 04:34:22 PM
RCPT# 909791
RECORDING FEES 13.00

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Prepared By and Without Benefit of Title Examination:
FINGER, MELNICK & BROOKS, P.A.
Post Office Box 24005
Hilton Head Island, South Carolina 29925
(843) 681-7000

STATE OF SOUTH CAROLINA	)	NOTICE OF EXTENSION OF THE
	)	DECLARATION OF COVENANTS,
	)	CONDITIONS, RESTRICTIONS, AND
	)	EASEMENTS FOR PALMETTO LAKES
	)	APARTMENTS AT WESTBURY PARK
	)	(Record Book 1106 at Page 1225)
COUNTY OF BEAUFORT	)	(Record Book 2269 at Page 1997)

THIS NOTICE OF EXTENSION OF THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PALMETTO LAKES APARTMENTS AT WESTBURY PARK (herein, the "***Notice***") is made this 23rd day of October, 2018, by WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation (herein, the "***Association***").

WITNESSETH

WHEREAS, on November 10, 1998, Plantation Properties, LLC (herein, the "***Declarant***") made and executed that *Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park*, which was recorded on November 12, 1998, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Record Book 1106 at Page 1225, as amended by that certain *Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments as Westbury Park*, dated November 1, 2005, which was recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Record Book 2269 at Page 1997; (herein collectively, the "***Declaration***"); and,

WHEREAS, according to Section 8.01 of the Declaration, the fee owner of the Property identified in Exhibit A to the Declaration is obligated to pay the Declarant, or its successors and assigns, an annual assessment for "[the Owner's] share of the costs for maintenance of the Required Streets and landscaping along the Required Streets and around and within parks within the Westbury Park Residential Area and the Westbury Park Commercial Area"; and,

WHEREAS, according to Section 9.01 of the Declaration, "[t]his Declaration, every provision hereof and every covenant, condition, and restriction contained herein shall continue in full force and effect for a period of twenty (20) years from and after the date of recording, provided that the rights and easements which are stated herein to have a longer duration shall have such longer duration"; and,

WHEREAS, Section 9.01 of the Declaration states that "[t]his Declaration may be renewed for an unlimited number of successive ten (10) year periods by the Declarant, its successors or assigns filing a notice of extension with the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, prior to the expiration of any term"; and,

WHEREAS, by virtue of that certain *Estate Payment Division Agreement and Assignment* entered into between the Declarant, the Association and the Westbury Park Commercial Center Property Owners' Association, Inc., a true and correct copy of which is attached hereto as Exhibit "A" (the "***Estate's Declaration Assignment***"), the Declarant assigned its declarant rights under the Declaration to the Association in accordance with Section 9.03 of the Declaration; and,

WHEREAS, the Association, as successor-in-interest to the Declarant, desires to renew the term of the Declaration for another ten (10) years pursuant to Section 9.01 of the Declaration; and,

WHEREAS, this *Notice of Extension* is being executed and recorded with the Office of the Register of Deeds for Beaufort County, South Carolina, by the Association to reflect the Association's decision to renew the Declaration for an additional ten (10) years.

NOW, THEREFORE, pursuant to Section 9.01 of that certain *Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park*, as amended from time to time, Westbury Park Residential Association, Inc., as successor in interest to Plantation Properties, LLC, hereby gives notice that it is exercising its right to renew the term of the aforesaid Declaration, as amended, for an additional ten (10) year period and that upon the recording hereof, the term of the aforesaid Declaration, as amended, shall be renewed for an additional ten (10) year period.

{*Remainder of Page Intentionally Omitted. Signature Page(s) and Exhibit(s) to Follow.*}

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

SIGNED, SEALED and DELIVERED as of the first date above set forth.

WITNESSES:

First Witness

Second Witness / Notary Public

ASSOCIATION:
WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation

By: _____ (L.S.)
Name: Josh Hemmann
Title: Vice President

STATE OF PENNSYLVANIA)
)
COUNTY OF Lebanon)

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this 11th day of October, 2018, before me, the undersigned Notary Public of the State and County aforesaid, personally appeared JOSH HEMMANN as VICE PRESIDENT for WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation, known or satisfactorily proven to me to be the persons whose name is subscribed to the within instrument, who, on behalf of the corporation, acknowledged the execution thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

_____(SEAL)
Second Witness/Notary Public for Pennsylvania
Notary Printed Name: Shelley L Derr
My Commission Expires: October 29, 2018

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
SHELLEY L. DERR, Notary Public
North Cornwall Twp., Lebanon County
My Commission Expires October 29, 2018

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

SIGNED, SEALED and DELIVERED as of the first date above set forth.

WITNESSES:

First Witness

Second Witness / Notary Public

ASSOCIATION:
WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation

Attest: _____ (L.S.)
Name: Stacey Sawyer
Title: Secretary

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I HEREBY CERTIFY that on this 22 day of October, 2018, before me, the undersigned Notary Public of the State and County aforesaid, personally appeared STACEY SAWYER as SECRETARY for WESTBURY PARK RESIDENTIAL ASSOCIATION, INC., a South Carolina nonprofit corporation, known or satisfactorily proven to me to be the persons whose name is subscribed to the within instrument, who, on behalf of the corporation, acknowledged the execution thereof.

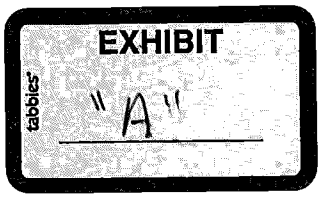
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

TASHA ARD
NOTARY PUBLIC
State of South Carolina
My Commission Expires May 22, 2023

_____(SEAL)
Second Witness/Notary Public for South Carolina
Notary Printed Name: TASHA ARD
My Commission Expires: May 22, 2023

f:\client\v - z\westbury park res. association, inc\agreements\estates at westbury\notice of extension (erl.2).docx

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158



ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ESTATE PAYMENT DIVISION AGREEMENT AND ASSIGNMENT

THIS ESTATE PAYMENT DIVISION AGREEMENT AND ASSIGNMENT is made and entered into this ____ day of _____, 2015, among Plantation Properties, LLC (hereinafter "PPLLC"), Westbury Park Residential Association, Inc. (hereinafter "ROA") and Westbury Park Commercial Center Property Owners' Association, Inc. (hereinafter "COA").

AGREEMENT

WHEREAS, on November 1, 2005, PPLLC entered into an "Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park" with Montecito Westbury, LLC, pursuant to which certain assessment funds are paid to PPLLC on a monthly basis in connection with the Estate at Westbury Park condominiums (the "Estate Funds"), which is incorporated herein by reference and referred to as the "Estate Agreement;" and,

WHEREAS, PPLLC does agree that beginning on August 1, 2015 to relinquish any rights that it may have to the Estate Funds and assign such Estate Funds to the ROA and COA; and,

WHEREAS, the COA agrees not to pursue, by lawsuit or other means, PPLLC for any Estate Funds paid to PPLLC prior to August 1, 2015; and,

WHEREAS, the ROA and COA have entered into an agreement as to the division of the Estate Funds between them, whereby beginning on August 1, 2015 the Estate Funds are to be divided 80% to the ROA and 20% to the COA; and,

NOW, THEREFORE, for and in consideration of the sum of Ten and 00/100 Dollars ($10.00) paid in hand by the ROA and COA to PPLLC, the receipt and sufficiency whereof is hereby acknowledged, PPLLC does, hereby assign, set over, transfer and convey to the ROA and COA, and their respective successors and assigns: a) all of PPLLC's rights, title and interest in and to the Estate Agreement; and b) all of PPLLC's rights, title and interest in and to the Estate Funds.

The ROA and the COA agree that the Estate Funds will be divided between them as follows: ROA: eighty percent (80%); COA: twenty percent (20%). The Estate Funds will be paid to the ROA which will remit the COA's portion of the funds within twenty (20) days of receipt of the same. The ROA shall not charge any administration fee for its collection and handling of the Estate Funds; provided, however, if legal action is necessary to collect the Estate Funds, the costs of collection shall be prorated and deducted from the Estate Funds. The ROA and COA agree to cooperate with each other in any required collection efforts regarding the Estate Funds.

IN WITNESS WHEREOF, the undersigned have executed this document as of the day and year first above written.

WITNESSES:

WITNESSES:

WITNESSES:

PLANTATION PROPERTIES, LLC

By: _____
James N. Richardson, Jr.
Managing Member

WESTBURY PARK RESIDENTIAL ASSOCIATION, INC.

By: _____
Pete Popovich
President

WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS' ASSOCIATION, INC.

By: _____
Richard L. Boeke
President

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

IN WITNESS WHEREOF, the undersigned have executed this document as of the day and year first above written.

WITNESSES:

PLANTATION PROPERTIES, LLC

By:_____
James N. Richardson, Jr.
Managing Member

WITNESSES:

WESTBURY PARK RESIDENTIAL ASSOCIATION, INC.

By:_____
Pete Popovich
President

WITNESSES:

Brooke Boeke

Stephanie Metts

WESTBURY PARK COMMERCIAL CENTER PROPERTY OWNERS' ASSOCIATION, INC.

By: Richard L Boeke
Richard L. Boeke
President

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

FORD WALLACE THOMSON LLC

ATTORNEYS AT LAW

October 15, 2018

John P. Qualey, Jr.,
as Registered Agent for
Plantation Properties, LLC
PO Box 1290
181 Bluffton Road, Suite F102
Magnolia Village Business Park
Bluffton, SC 29910

James N. Richardson, Jr.
as Registered Agent for
Westbury Park Commercial Center Property Owners Association, Inc.
c/o The Richardson Group
3 Harbour Passage
Hilton Head Island, SC 29926

Westbury Park Residential Property Owners Association, Inc.
IMC Resort Services, Inc.
2 Corpus Christi #302
Hilton Head Island, SC 29928

Dear Sir or Madame:

We serve as counsel to the Estate at Westbury Owner's Association, Inc. ("EWOA"), and we are contacting you on its behalf.

The purpose of this letter is to inform you that, beginning on November 12, 2018, EWOA will no longer pay any monthly assessment, purportedly for maintenance and landscaping of the streets, Westbury Park Way and Kensington Boulevard. Furthermore, EWOA hereby requests an accounting of the use of its assessment payments for the past twenty (20) years.

The basis for the above statements may be found in the history of the property:

On November 12, 1998, Plantation Properties, LLC ("Declarant"), recorded its Declaration of Covenants, Restrictions, and Easements for Palmetto Lakes Apartments at Westbury Park ("Declaration.") Palmetto Lakes Apartments at Westbury Park ("the Property") was a predecessor in title to EWOA. The Declaration contains a covenant by the Owner of the Property to pay to the Declarant an annual Assessment in the amount of $17,500, which covenant is found in Section 8.01. This Assessment is specifically

designated as being for the Owner's "share of the costs for maintenance of the Required Streets and landscaping along the Required Streets...." Section 2.03(d) defines "Required Streets" as Westbury Park Way and Kensington Boulevard. Although Section 8.01 specifies that the Assessment shall be paid to the Declarant, it notes that the reasonable care and maintenance of the streets and landscaping is the responsibility of Westbury Park Commercial Center Property Owners Association, Inc. and Westbury Park Residential Property Owners Association, Inc.

Thereafter, and also on November 12, 1998, Plantation Properties conveyed the Property to an entity called Westbury Park Apartments, Ltd. This entity subsequently conveyed the Property to Montecito Westbury, LLC ("Montecito") by a deed recorded on November 2, 2005.

Shortly after Montecito acquired title to the Property, Plantation Properties—as Declarant—recorded an Amendment to the Declaration ("Amendment"). The Amendment was signed by Montecito as the Owner of the Property, which signature was required pursuant to the Declaration, Section 9.02; the Amendment was recorded on November 11, 2005.

The Amendment had two purposes that are relevant to the parties herein. It altered Article V of the original Declaration to allow the Property to be converted into the condominium form of ownership, and it amended the covenant in Section 8.01 so as to require the Owner of the Property to pay a monthly Assessment in the amount of $7,200 (to be adjusted annually). This amended Assessment was also specifically designated as being for the Property's "share of the cost for maintenance [of streets and landscaping.]" The amended Assessment contemplated that, if Montecito transformed the property into the condominium form of ownership, "the resulting condominium association shall have the obligation to collect adequate funds....and pay the Assessment directly to" Palmetto Properties.

The Amendment warranted that Plantation Properties had not assigned any of its rights under the 1998 Declaration. It concluded with the statement that "[i]n all other respects, the Declaration is hereby ratified and confirmed."

On January 26, 2006, as contemplated by the Amendment, Montecito converted the Property to a condominium form of ownership. The Master Deed for the Estate at Westbury Horizontal Property Regime names Montecito as Declarant. The Master Deed does not specifically reference the Assessment, nor the 2005 Amendment obligating the condominium association to pay the monthly assessment to Plantation Properties. On or about February 15, 2006, Montecito began conveying the condominium units to individual owners. Those owners are members of the undersigned EWOA. Pursuant to the Declaration and to the Amendment, EWOA has been duly paying a monthly Assessment.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Particularly pertinent to the above history is Article IX of the 1998 Declaration. Article IX contains provisions for the term, termination, modification, and assignments of Declarant's rights and duties. **By the provisions of Article IX, the Declaration—and all of its covenants—is limited in force and effect to a period of twenty (20) years from November 12, 1998.**

Article IX delineates that the Declaration's covenants may only be extended "by the Owner and Declarant jointly." The Declaration has not been so extended. **Therefore, the Property Owner's covenant to pay the Assessment terminates on November 12, 2018.**

Furthermore, it is EWOA's contention that Plantation Properties (as Declarant under the 1998 Declaration and its Amendment) owes a fiduciary duty to the Property and to the EWOA. This fiduciary duty requires, among other things, that Plantation Properties act with good faith and fair dealing toward the Property and its Owner.

In addition to its fiduciary duty, Plantation Properties also undertook the specific contractual duty to use the Assessment for the maintenance of the streets and landscaping as set forth in Article 8.01.

EWOA therefore has a right to an accounting from Plantation Properties as to the use of the Assessment. Similarly, Plantation Properties has a duty to render such an accounting, demonstrating that there has been no misallocation of the funds entrusted to it, and surrendering any amount which has not been used in accordance with the Declaration and its Amendment.

EWOA therefore demands an accounting that sets forth the use of the Assessment, since 1998. It further demands that this accounting would be rendered no later than thirty (30) days from the date of this letter.

Very truly yours,

Ian S. Ford

Cc: Joseph Ables *(via email)*

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

FINGER, MELNICK & BROOKS, P.A.

ATTORNEYS AT LAW

TERRY A. FINGER ▪
TYLER A. MELNICK □
THOMAS L. BROOKS
BENJAMIN T. SHELTON
E. RICHARDSON LaBRUCE

Of Counsel:
ANNE C. MARSCHER *□
ARTHUR F. ANDREWS†□

35 Hospital Center Common, Suite 200 (29926)
Post Office Box 24005
Hilton Head Island, South Carolina 29925
(843) 681-8802 Facsimile
(843) 681-7000 Telephone
bshelton@fingerlaw.com

Also admitted in:
* Georgia
† New York

□ Court Certified Mediator
▪ Court Certified Arbitrator / Mediator

June 20, 2019

VIA EMAIL: Ian.ford@fordwallace.com
AND U.S. MAIL, FIRST CLASS

Estate at Westbury Owner's Association, Inc.
c/o Ian S. Ford, Esq.
Ford Wallace Thomson LLC
715 King St.
Charleston, SC 29403

Re: Estate at Westbury — Notice of Default

Dear Ian,

I hope this correspondence finds you well. As you know, this Firm serves as general counsel to Westbury Park Residential Association, Inc. ("WPRA"). On December 27, 2018, WPRA notified the Estate at Westbury Owner's Association, Inc. ("E@W") of its default on payments owed to WPRA under the easement agreement arising from the Declaration of Covenants, Conditions, Restrictions and Easements for Palmetto Lakes Apartments at Westbury Park, dated November 10, 1998 and its Amendment dated November 1, 2005 (herein, collectively, the "Declaration"). This letter renews, restates and updates the December 27, 2018 Notice of Default.

Since sending the December 27, 2018 Notice of Default, WPRA has endeavored to resolve the delinquency in good faith by meeting with the E@W, sharing confidential material with the E@W, and extending offers to the E@W to meet again in effort to resolve the default by way of joint agreement. During this same time period, WPRA has suffered damages to the gates used by the E@W by agents and residents of the E@W. In response to these events, WPRA sought payment from and the assistance of the E@W to identify and remedy these breaches and damages.

Despite these efforts, WPRA has received no further communication from the E@W relative to the default, has received no payment from the E@W under the easement agreement, and has received no assistance or remedy from the E@W relative to the gate breaches in question.

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

NOTICE OF DEFAULT OF EASEMENT AGREEMENT

Please take notice that the Estates at Westbury is delinquent for payments past owed and due for the upkeep and maintenance of the required streets as defined under the Declaration. A current statement of the account is enclosed as **Exhibit A**. Further, WPRA has incurred significant legal fees associated with the collection of these past due assessments.

WPRA demands immediate payment of the full amount contained in **Exhibit A**.

NOTICE OF DAMAGES FOR GATE BREACHES AND VIOLATIONS

As referenced above, agents and residents of the E@W have repeatedly breached the gates, incurred violations to WPRA Rules and Regulations, and damaged the gates of WPRA. WPRA has made demands to the E@W to pay for the damages done to the gates, to seek payment from the responsible parties, to assist in identifying the responsible and otherwise cease from and prevent further acts of property damage. (**Exhibit B**, Notice Letter from WPRA).

To date, E@W has made no effort to pay for the damage and fines its agents and residents have caused and/or incurred, or shared any information with WPRA relative to the violations and property damage caused by E@W's agents and residents.

WPRA trusts that the Estate at Westbury Owner's Association, Inc. understands the gravity of the matters contained in this correspondence. Failure to meaningfully and immediately responding to this correspondence by meeting the demands contained herein and engaging in meaningful attempts to resolve the issues raised by this correspondence will result in WPRA and other effected entities fully and appropriately enforcing their rights at law and in equity.

With regards, I am

Very truly yours,

FINGER, MELNICK & BROOKS, P.A.

Benjamin T. Shelton

BTS/js
cc: client (via e-mail)
F:\client\V - Z\Westbury Park Res. Association, Inc\Estate at Westbury Accounting Demand\Correspondence\Letter to Ian 6-20-19.doc

Westbury Record on Appeal 0493

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury Park, ROA
c/o IMC Resort Services, Inc
2 Corpus Christi, Suite #302
Hilton Head Island, SC 29928

Phone: 843-785-4775

Account Number:	Statement Date
45719	6/14/2019
Due Date	**Amount Due:**
	76,512.92

Make checks payable to your association



Send payment To:

at Westbury The Estates
85 Kensington Blvd.
Bluffton, SC 29910

Westbury Park, ROA
c/o IMC Resort Services, Inc
P.O. Box 95187
Las Vegas, NV 89193-5187

DATE	TRANSACTION	AMOUNT	BALANCE	Check #
	Balance Forward:		0.00	
8/31/2018	Start Up Balance - Prior Manag	15,045.72	15,045.72	
9/1/2018	Easement Assessment	7,522.00	22,567.72	
9/16/2018	Late Fee	62.43	22,630.15	
10/1/2018	Easement Assessment	7,522.00	30,152.15	
10/16/2018	Late Fee	62.43	30,214.58	
10/17/2018	Payment	-15,046.00	15,168.58	11027
11/1/2018	Easement Assessment	7,522.00	22,690.58	
11/16/2018	Late Fee	62.43	22,753.01	
12/1/2018	Easement Assessment	7,522.00	30,275.01	
12/7/2018	Payment	-30.00	30,245.01	1555
12/16/2018	Late Fee	62.43	30,307.44	
1/1/2019	Regime Fee	404.50	30,711.94	
1/1/2019	Easement Assessment	7,643.00	38,354.94	
1/16/2019	Late Fee	63.44	38,418.38	
2/1/2019	Late Fee	25.00	38,443.38	
2/1/2019	Easement Assessment	7,643.00	46,086.38	
2/16/2019	Late Fee	63.44	46,149.82	
2/25/2019	Credit Waive late fees	-25.00	46,124.82	
2/25/2019	Credit Assessment	-374.22	45,750.60	
3/1/2019	Easement Assessment	7,643.00	53,393.60	
3/16/2019	Late Fee	63.44	53,457.04	
4/1/2019	Easement Assessment	7,643.00	61,100.04	

FOLD ON PERFORATIONS, DETACH COUPON, AND RETURN IT WITH YOUR PAYMENT

Date Paid: _____

Check #: _____

at Westbury The Estates
85 Kensington Blvd.
Bluffton, SC 29910

Account Number:	Payment Due By:
45719	
Amount Due:	**Amount Enclosed:**
76,512.92	

Make checks payable to your association
Detach and return this portion with your remittance

Property: 85 KENSINGTON BLVD
Bluffton, SC 29910

Westbury Park, ROA
c/o IMC Resort Services, Inc
P.O. Box 95187
Las Vegas, NV 89193-5187

In accordance with the rules of the National Automated Clearing House, information from the check sent with this payment may be used to create an electronic debit to your account. The electronic debit on your statement is valid as proof of payment.

0000 003408 0000000000045719 1 00000 00000 0

ELECTRONICALLY FILED - 2020 Sep 15 9:35 PM - BEAUFORT - COMMON PLEAS - CASE#2020CP0700158

Westbury Park, ROA
c/o IMC Resort Services, Inc
2 Corpus Christi, Suite #302
Hilton Head Island, SC 29928

Phone: 843-785-4775

Account Number:	Statement Date
45719	6/14/2019
Due Date	**Amount Due:**
	76,512.92

Make checks payable to your association

Send payment To:

at Westbury The Estates
85 Kensington Blvd.
Bluffton, SC 29910

Westbury Park, ROA
c/o IMC Resort Services, Inc
P.O. Box 95187
Las Vegas, NV 89193-5187

DATE	TRANSACTION	AMOUNT	BALANCE	Check #
4/16/2019	Late Fee	63.44	61,163.48	
5/1/2019	Easement Assessment	7,643.00	68,806.48	
5/16/2019	Late Fee	63.44	68,869.92	
6/1/2019	Easement Assessment	7,643.00	76,512.92	

Pay This Amount: $76,512.92

Please send all correspondence or any inquiries on your invoice to:
IMC Resort Services, Inc
2 Corpus Christi, Suite #302
Hilton Head Island, SC 29928

FOLD ON PERFORATIONS, DETACH COUPON, AND RETURN IT WITH YOUR PAYMENT

Date Paid: _____

Check #: _____

at Westbury The Estates
85 Kensington Blvd.
Bluffton, SC 29910

Account Number:	Payment Due By:
45719	
Amount Due:	**Amount Enclosed:**
76,512.92	

Property: 85 KENSINGTON BLVD
Bluffton, SC 29910

Make checks payable to your association
Detach and return this portion with your remittance

Westbury Park, ROA
c/o IMC Resort Services, Inc
P.O. Box 95187
Las Vegas, NV 89193-5187

In accordance with the rules of the National Automated Clearing House, information from the check sent with this payment may be used to create an electronic debit to your account. The electronic debit on your statement is valid as proof of payment.

0000 003408 0000000000045719 THEESTATES0 000212 0