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FOR REGISTRATION REGISTER OF DEEDS  
Willie L. Covington  
DURHAM COUNTY, NC  
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INSTRUMENT # 2009024414

Prepared by and return to William A. Anderson, P.O. Box 51579, Durham, NC 27717-1579

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

DECLARATION  
OF  
MANGUM 506 CONDOMINIUM

THIS DECLARATION OF CONDOMINIUM is made this 2<sup>nd</sup> day of July, 2009, by M506, LLC, a North Carolina limited liability company (the "Declarant"). Declarant hereby states and declares as follows:

WITNESSETH:

WHEREAS, Declarant is the Owner of certain real property located in the City of Durham, Durham County, North Carolina, more particularly described on Exhibit A attached hereto, upon which it is constructing two buildings intended to contain residential condominium units and commercial condominium unit(s) and certain other improvements; and

WHEREAS, Declarant desires to submit said real property and the improvements located thereon (collectively, the "Property") to the terms and provisions of the North Carolina Condominium Act and by so doing intends to protect the value and the desirability of the Property, further a plan for condominium ownership of the Property, create a harmonious and attractive mixed use development, and promote and safeguard the health, comfort, safety, convenience and welfare of the owners of the condominium units.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the Property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**  
**DEFINITIONS**

The capitalized terms used in this Declaration and in the Exhibits hereto shall have the meanings stated in the North Carolina Condominium Act and as follows, unless the context otherwise requires:

Act or North Carolina Condominium Act means the North Carolina Condominium Act as currently set forth in N.C.G.S. Chapter 47C, Articles 1 through 4, as amended.

Articles or Articles of Incorporation means the articles of incorporation filed with the office of the North Carolina Secretary of State which establishes Mangum 506 Condominium Owners Association as a North Carolina not-for-profit corporation.

Association means the Unit Owners' association as defined by the Act, and also means the Mangum 506 Condominium Association, the not-for-profit corporation by which the Unit Owners' association shall operate the Condominium.

Back Building means the Building on the eastern side of the Property which is located behind the Front Building.

Board or Executive Board means the group of persons selected, authorized and directed to operate the Association as provided by the Act, this Declaration and the Bylaws.

Bylaws means the bylaws of the Association which, with this Declaration and the Articles of Incorporation of the Association, describe the powers and functions of the Association, and which from time to time may be amended by the Association. Rules and Regulations of the Association shall be attached to the Bylaws as an appendix.

Building means a structure containing one or more Units which comprises a part of the Property. Buildings shall collectively mean the Front Building and the Back Building.

Common Elements means all portions of the Condominium other than the Units.

Common Expenses means the expenses for which the Unit Owners are liable to the Association consisting of expenditures made by, or financial liabilities of, the Association including, but not limited to, expenses of administration, maintenance, insurance, operations, repair or replacement of the Common Elements, allocations to general operating reserves and any authorized additions thereto, any amount for general working capital and general operating reserves, amounts for a reserve fund for replacements, and to make up any deficit in assessments for Common Expenses for any prior year and any expense or liability covered by the levy of a special assessment.

Residential Expenses shall mean those expenses for which only the Residential Unit Owners are liable. Garage Expenses shall mean those expenses for which only the Garage Unit Owners and Owners of Residential Units in the Back Building (which all contain garages) are liable. Commercial Expenses shall mean those expenses for which only the Commercial Unit Owners are liable.

Commercial Tenant means a lessee or sublessee of a Commercial Unit or any portion of a Commercial Unit.

Commercial Unit means any non-residential Unit created by the recording of this Declaration that is intended for, and restricted to, nonresidential commercial use.

Co-owner means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, which owns a Unit. The term "Owner" or "Co-owner" shall have the same connotation as the term "Unit Owner" as used in the Act.

Condominium means the real estate described in Exhibit A, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the Owners of those portions.

Condominium Documents means this Declaration and the Articles of Incorporation and Bylaws for the Association.

Declaration means this Declaration of Condominium, as it may be amended from time to time, which shall be recorded in the Durham County Registry together with the Plat, thereby establishing Mangum 506 Condominium by subjecting the Property to the Act.

Declarant means M506, LLC, a North Carolina limited liability company, and its successors and assigns.

Front Building means the Building located immediately adjacent to North Mangum Street.

Garage Unit means a Unit created by this Declaration which is intended to be a single car garage. Garage Units are separate and distinct Units from Residential or Commercial Units and are located only in the Front Building.

Limited Common Elements means the portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units by the Declaration or by operation of N.C.G.S. § 47C-2-102(2) and (4) of the North Carolina Condominium Act.

Owner or Unit Owner has the same definition as Co-owner as set forth in Paragraph 1.10 of this Article 1.

Period of Declarant Control means the period during which the Declarant shall control the Association, which period shall commence on the date this Declaration is recorded and continue until the earlier of (i) 120 days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than Declarant; (ii) two years after Declarant has ceased to offer Units for sale in the ordinary course of business; or, (iii) the date upon which Declarant voluntarily surrenders control of the Condominium to the Association.

Plat means the survey of the Property and the plans for the Condominium, said Plat consisting of Sheets 1 through 6, inclusive, and being recorded in the Durham County Registry in Condominium Plat Book 11, Pages 207 through 217, inclusive. The Plat is hereby incorporated herein by reference and is made an integral part of this Declaration.

Property means and includes the underlying land, the Buildings, all other improvements and structures thereon, as described in Exhibit A attached hereto and incorporated herein by reference, and all easements, rights and appurtenances belonging thereto.

Residential Unit means any Unit created by this Declaration that is intended for, and restricted to, residential use.

Special Declarant Rights means all of Declarant's reserved rights as defined in the Act and in this Declaration.

Unit or Condominium Unit means the physical portion of the Condominium which is designated for separate ownership, the boundaries of which are described in section 3.2 hereof and which are shown on the Plat.

The definitions set forth in N.C.G.S. §47C-1-103 are hereby incorporated by reference and the terms defined therein shall have the meanings set forth therein when used in this Declaration or in other Condominium documents, unless the applicable terms are expressly defined otherwise in this Declaration or unless the context otherwise plainly requires a different meaning.

## **ARTICLE II**

### **SUBMISSION OF PROPERTY TO CONDOMINIUM ACT**


2.1 Submission of Property. Declarant hereby submits the Property to the provisions of the Act. The Property will be administered in accordance with the provisions of the Act, the Declaration, the Bylaws, and the other Condominium documents as applicable.

2.2 Condominium Name. The name of the Condominium shall be "Mangum 506 Condominium".

2.3 Plat and Plans. The Property is located in the City of Durham, Durham County, North Carolina. Attached hereto as Exhibit A is a legal description of the Property, which Property is more particularly shown on the Plat. The architectural plans filed as part of the Plat show and describe the Units and certain Limited Common Elements.

2.4 Number of Units. Declarant hereby establishes within the Property thirty-one Units and does hereby designate all such Units for separate ownership. The maximum number of Units permitted in the Condominium is thirty-four. In the event that the Commercial Unit(s) is subdivided, this Declaration will be amended to reallocate the Fractional Shares shown on Exhibit B attached hereto and incorporated herein by reference. Subdivision of Residential Units and Garage Units is prohibited. Unit boundaries are described in below section 3.2 and on the Plat. Identifying Unit numbers and Unit locations are also shown on the Plat. Subject to the limitations contained herein, the Commercial Unit(s) may be subdivided into no more than five (5) Commercial Units.

More specifically, by recording this Declaration, Declarant hereby establishes the following numbers of Units in the following locations:

Front Building:	4 Commercial Units	
	2 loft style Residential Units	
	10 flat style Residential Units	
	7 Garage Units	
Back Building:	8 townhouse style Residential Units	

2.5 Association Membership. Each Owner shall be a member of the Association. Owners shall be entitled to a vote in the Association in accordance with the Fractional Shares as set forth on Exhibit B.

2.6 Limited Common Elements Generally. Other than those portions of Common Elements allocated by operation of N.C.G.S. § 47C-2-102(2) or (4) and those created and allocated by operation of section 4.2 below, there are no additional Limited Common Elements.

2.7 Special Declarant Rights. Declarant reserves all Special Declarant Rights for the entire Property as defined above in Article I including the following:

- (a) To complete any and all improvements indicated on the Plat;
- (b) To construct and maintain any sales office, management office, or model or guest rooms in any of the Units or on any of the Common Elements shown on the Plat;
- (c) During the Period of Declarant Control, to appoint and remove any officers or Executive Board members; provided, however, that: (i)

not later than sixty (60) days after the conveyance of 25% of the Units to Owners other than Declarant, at least one (1) member and not less than 25% of the Members of the Executive Board shall be elected by Owners other than Declarant; and (ii) not later than sixty (60) days after conveyance of 50% of the Units to Owners other than Declarant, not less than 33% of the members of the Executive Board shall be elected by Owners other the Declarant;

- (d) To use those easements through any Common Elements which are reasonably necessary for the purpose of making any improvement indicated on the Plat, or otherwise necessary for the exercise of these Special Declarant Rights or otherwise discharging its obligations or rights hereunder;
- (e) To place "For Sale" or "For Rent" signs advertising Units on any part of the Common Elements or within any Units owned by the Declarant; and
- (f) To assign, collaterally or otherwise, in whole or in part, to its successors in title, any of Declarant's Units hereunder, or to its agent, or to an independent third party, or to the Association, any of the rights reserved in this Declaration, including these Special Declarant Rights. All references to Declarant and Declarant's rights hereunder shall be deemed to include any specific assignee of Declarant.

These Special Declarant Rights shall expire upon the earlier of: 1) December 31, 2016; or 2) one year after the last Unit is conveyed in fee to someone other than Declarant. Notwithstanding the expiration of the Special Declarant Rights, the Declarant may retain ownership of any number of the Units for any amount of time.

**ARTICLE III**  
**DESCRIPTION OF UNITS; USE; REPAIRS; RESTRICTIONS**  
**DECLARATION OF COVENANTS, CONDITIONS AND**  
**RESTRICTIONS**

3.1 General Description of Units. All of the Units are more particularly shown on the Plat, which is incorporated herein in the same manner as if expressly set forth in this section 3.1. The Plat provides the relative locations of all the Units, the Unit numbers, the square footage area of each Unit, and depicts the Unit boundaries that are further described in section 3.2 below, which together with this Declaration shall constitute a complete description of the Units within the Condominium. The Garage Units in the Front Building exist separate and apart from, and are not a part of, the Residential and Commercial Units in the Front Building. The Garage Units may be conveyed in fee independently of the Commercial and Residential Units so long as the purchaser of such Garage Unit is a Commercial or Residential Unit Owner.

3.2 Unit Boundaries. The vertical and horizontal perimetric boundaries of each Unit shall consist of the unfinished perimeter walls, concrete or gypcrete floors, as applicable, and the bottom surfaces of the roof rafters or ceiling joists, as applicable, and all as more particularly shown and described on the Plat. More specifically, the horizontal plane of the roof rafters or ceiling joists, as applicable, within a Unit shall be the upper boundary thereof and the horizontal plane of the top surface of the subfloor of each Unit shall be the lower boundary thereof. All lath, furrowing, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof shall be a part of the Unit. All other portions of such walls, floors, or ceilings not included within the Units are a part of the Common Elements. Interior walls, partitions, fixtures, appliances, cabinets and other facilities and other improvements lying completely within the boundaries of a Unit, if any, shall be part of such Unit.

3.3 Unit Owners' Responsibilities for Maintenance and Repair

- (a) Each Owner shall be responsible for the maintenance and repair of her Unit. All Unit owners shall be responsible for routine cleaning of the interior surfaces of the exterior windows and doors, which are Limited Common Elements allocated exclusively to the Unit served. Repair and replacement of exterior windows and doors serving Residential Units and garage doors shall be the responsibility of the Association and the cost of such repair or replacement shall be borne by the Owner of the Unit served by such windows or doors. Repair and replacement of the exterior storefront windows and exterior doors shall be the direct responsibility of the Owner of the Commercial Unit served by such storefront windows or doors, and such repair or replacement shall be made with materials and finishes of equal or better quality to those installed by the Declarant, and shall be made in accordance with a set of standards maintained by the Association. Any repair or replacement of the interior machinery which operates a garage door and which does not involve repair or replacement of the garage door shall be the responsibility of the Garage Unit Owner served by such garage door and related machinery. Any repair of nonstructural defects in the concrete garage floors shall be the responsibility of the Garage Unit Owner. In the event any window or exterior door is broken, the Unit Owner shall be responsible for securing her Unit until such time as the window or door can be repaired or replaced.
- (b) Each Owner shall be responsible for any damage to her Unit or to any other Unit or any of the Common Elements caused by any action or inaction of that Owner, his lessee, invitee, or agent (i.e., actions other than what is customarily considered normal wear and

tear), damage attributable to keeping pets, smoking, and similar kinds of activity, which directly or indirectly causes damage to any other Unit or to any of the Common Elements.

- (c) In the event that the Association determines that any Unit Owner has failed or refused to discharge properly his obligations with respect to the maintenance, cleaning, repair, or replacement of items for which he is responsible under the Declaration, then, in that event, the Association, except in the event of an emergency situation, shall give such Unit Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement at such Unit Owner's sole cost and expense, and setting forth with reasonable particularity the maintenance, cleaning, repair, or replacement deemed necessary. Except in the event of emergency situations, such Unit Owner shall have fifteen (15) days in which to complete said maintenance, cleaning, repair, or replacement in a good and workmanlike manner, or in the event such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair, or replacement in a good and workmanlike manner within fifteen (15) days and diligently pursue completion. In the event of emergency situations or the failure of any Unit Owner to comply with the provisions hereof after such notice, the Association may provide any such maintenance, cleaning, repair, or replacement at such Unit Owner's sole cost and expense, and said cost shall be added to and become a part of the assessment to which such Unit Owner and his Unit are subject and shall become a lien against such Unit as provided herein.

3.4 Uses of Units; Use Restrictions. It is the intent of the Declarant that the Property be developed and maintained as an attractive, well maintained mixed-use development. To that end, the following covenants, conditions and restrictions are hereby placed on the Property.

- (a) Restrictions Applicable to All Units.
- i. The Owners shall each comply with all laws, statutes, codes, rules, orders, decrees, ordinance, regulations and requirements, now or hereafter enacted or promulgated by the United States of America, State of North Carolina, the County of Durham, or the City of Durham, and any other entity or agency now or hereafter having jurisdiction over the Property or any portion thereof; and make all payments of taxes and other charges, the nonpayment of which entitles the unpaid party to assert a lien on an Owner's

property, or if noncompliance or nonpayment by one Owner with respect to his Unit or any part thereof would subject the other Owner to civil or criminal liability, or would jeopardize the full force or effect of any certificate of occupancy issued to such other Owner or for the Building itself or would jeopardize such other Owner's right to occupy or use beneficially his respective Unit or any part thereof, or would result in the imposition of a lien against any other property of an Owner.

- ii. Each Owner (hereinafter for the purposes of this section 3.4(a)(ii), "Indemnifying Owner") covenants and agrees, at its sole cost and expense, to indemnify and hold harmless any other Owner, its partners, agents, directors, officers, employees and members (collectively referred to for the purposes of this section 3.4(a)(ii) as the "Indemnitee") from and against any and all claims against Indemnitee for losses, liabilities, damages, judgments, costs and expenses and any actions or proceedings arising therefrom, by or on behalf of any person, firm, corporation or governmental authority, other than the Indemnitee, arising from the Indemnifying Owner's or its permittees' use, possession, or management of the Indemnifying Owner's Unit or activities therein or arising out of the Indemnifying Owner's or its permittees' use, exercise or enjoyment of an easement and from and against all costs, reasonable attorney's fees, expenses and liabilities incurred with respect to any such claim, action or proceeding brought against the Indemnitee by reason of any such claim, Indemnifying Owner, upon notice from Indemnitee, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to Indemnitee. (Any counsel for the insurance company providing insurance against such claim, action or proceeding shall be presumed reasonably satisfactory to Indemnitee.)
- iii. No Unit Owner shall do, suffer, or permit to be done, anything in his Unit which would impair the soundness or safety of the Condominium, or which would be noxious or offensive or an interference (including noise) with the peaceful possession and proper use of other Units, or which would require any alteration of or addition to any of the Common Elements to maintain compliance with any applicable law or regulation, or which would otherwise be in violation of law, or which would cause the insurance rates for the insurance carried by the Association, or by any other Unit Owner on his Unit or personal property kept on

the Property, to increase above the commercially reasonable rates available for similar purposes.

- iv. In case of any emergency originating in or threatening any Unit, or any portion of the Common Elements, regardless of whether the Owner, any tenant, or their invitees, if any, are present at the time of such emergency, the Association's Board and all managerial personnel shall have the right to authorize access to such Unit and any Common Element or Limited Common Element for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of any such emergency, the Owner of each Unit, if required by the Association, shall deposit a key to such Unit or Limited Common Element under the control of the Association.
- v. No Owner shall (either with or without negligence) cause or permit the escape, disposal or release of any biologically active or other hazardous substances, or materials or allow the storage or use of such substances or materials anywhere on the Property in any manner not sanctioned by law for the temporary storage and use of such substances or materials. Each Owner shall maintain its Unit so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits and regulations of all state, federal, local and other governmental and regulatory authorities, agencies and bodies applicable to the Property pertaining to environmental matters or regulating, prohibiting or otherwise having to do with asbestos, lead and all other toxic, radioactive, or hazardous wastes or material including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended.
- vi. Except as permitted by applicable law, including regulations of the Federal Communications Commission, no television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed in the exterior portion of any Unit or to the Common Elements without the express prior written permission of the Association.
- vii. All garbage and items to be recycled shall be placed only in the designated receptacles for pickup by the City of Durham, its agent, or other private contractor.

- viii. Declarant may make changes in any Unit or in the Common Elements at any time to meet mandatory requirements of applicable law.
  - ix. Any lease of any Unit shall expressly provide that occupancy thereunder must be in a manner consistent with the Bylaws and shall likewise provide that the terms and conditions of the Declaration and all exhibits thereto shall be complied with by the lessee. Any lease entered into by a Unit Owner pursuant to the provisions of this paragraph shall be deemed to contain the requirements set forth herein whether or not they are actually contained therein and the lessor and the lessee of any such lease shall be bound by these provisions.
  - x. No Owner shall in any way puncture, tear, cut or otherwise damage the gypsum board which is hung on the perimeter walls and ceilings of the Units; provided, however, this restriction shall be construed to permit the normal hanging of pictures or shelves.
  - xi. No interest in any Unit shall be subjected to a time share program, as that term is defined in N.C.G.S. § 93A-41(10).
- (b) Restrictions Applicable to Commercial Units. The Commercial Unit shall be used only for commercial, nonresidential purposes. No pets shall be kept in a Commercial Unit. No Commercial Owner or Commercial Tenant shall use any Unit for any of the following uses nor enter into any agreements or leases with any party which uses, or intends to use, any Unit for any of the following uses, and no such use shall be permitted:
- i. Bowling alley;
  - ii. Funeral parlor;
  - iii. Industrial, processing or manufacturing use;
  - iv. Adult bookstore or adult movie store;
  - v. Massage parlor, "strip" or similar club or establishment;
  - vi. So-called "head shop";
  - vii. Dry cleaners (except as a "drop off" site for off-site cleaning);
  - viii. Photography stores which develop film on-site (unless the store is required by the terms of its lease to properly store and dispose of processing chemicals and other, photographic waste materials in accordance with all

applicable federal, state and local laws, rules and regulations);

- ix. Pet store, kennel, veterinary practice, or similar use that involves the housing of animals;
- x. Day care or group home (to extent such uses can be prohibited by law);
- xi. Check cashing, payroll lending, or cash advance services;
- xii. Bail bonding services;
- xiii. Pawn shop;
- xiv. Warehousing operation;
- xv. Gun shop or any shop selling weapons;
- xvi. Restaurants having greasetraps or range hoods vented to the outside; nightclubs, dance clubs and bars; provided, however, this prohibition is not intended to prohibit cafes or coffee shops which have no exterior vented hoods or grease traps. In no event shall any restaurant or café operate after 10 p.m. Amplified music is prohibited; and
- xvii. Beauty supply stores, salons, spas, barber shops or similar uses.

(c) Restrictions Applicable to Residential Units.

- i. The Residential Units shall be used only for residential, noncommercial purposes.
- ii. A maximum of two (2) domestic pets per Residential Unit is allowed subject to the provisions of this Declaration. The aggregate weight of the pets shall not exceed one hundred (100) pounds. Non-domestic pets shall not be allowed in any Residential Unit. Pets shall not be kept or maintained for commercial purposes or for breeding. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten (10) days written notice from the Association. All pets shall be kept on a leash except when in a Residential Unit and the Residential Unit Owner shall be responsible for removing all pet waste left on the Property by any pets residing with such Residential Unit Owner.
- iii. Except to the extent such uses are required by law to be permitted, no Residential Unit may be used for day care or group home purposes.

- iv. No unusual, disturbing or objectionable odor or noise shall be permitted to emanate from any Residential Unit.
  - v. No Residential Unit Owner shall sweep or throw any debris, dirt or other substance from any window or balcony, patio or terrace or permit any occupant or guest to engage in such activities.
  - vi. There shall be no smoking in any of the interior portions of the Common Elements.
  - vii. All leases of Residential Units shall be for terms of six months or longer.
- (d) Restrictions to Run with Land. The Declarant hereby declares and affirms that the covenants, conditions and restrictions described herein shall be deemed restrictive covenants running with the land and are imposed as a limitation and burden upon each Unit Owner and upon the Declarant, upon all future Unit Owners, upon Owner's lessees, invitees, permittees, licensees, guests any other person or entity having any right, title or interest in the Property.
- (e) Restrictions Applicable to Garage Units.
- (i) In order to prevent persons or entities which are not Unit Owners from owning Garage Units, fee title to all Garage Units shall be vested at all times in an Owner or Owners of Commercial or Residential Units, and all purchasers of Garage Units must be Commercial or Residential Unit Owners. Provided, however, Declarant may retain a Garage Unit after conveying in fee all the Commercial and Residential Units. Declarant's successor in title to Garage Units shall be a Commercial or Residential Unit Owner.
  - (ii) Garage Units shall only be used for the parking of automobiles, motorcycles, scooters, or bicycles, or for storage incident to the normal and reasonable use and enjoyment of a Residential Unit. No Garage Unit may be used for storage incident to a Commercial Unit or for or in the conduct any business.
  - (iii) Unit Owners shall not create any doorway or other aperture between a Residential Unit or Commercial Unit and a Garage Unit
  - (iv) Leasing of Garage Units is prohibited except to Owners.
  - (v) Garage doors shall be closed except when used for the purposes of ingress and egress.
- (f) Special Rules for Signs, Banners, and Flags.

- (i) General Rules. Except as required by law, no signs, banners, or flags or of any type shall be posted, hung or erected by any Owner or any other person on any part of the Common Elements except as permitted by this subsection 3.4(f) or by the prior approval of the Association.
- (ii) Residential Units. Flags, and political signs not exceeding two square feet in size, which are visible from the exterior of the Buildings are permitted inside Residential Units. "For Sale," "For Lease" or other similar signs not exceeding two square feet in size for the purpose of marketing the Residential Unit are permitted to be hung in a window for not more than sixty (60) days in any twelve (12) month period.
- (iii) Commercial Units. Commercial Owners and Tenants may place signs, banners and flags on the ground floor facade or within the Commercial Units so long as such signs, banners, and flags: 1) advertise the businesses situated in the Commercial Units, 2) comply with the signage plan for the Condominium, and 3) are in compliance with all local sign ordinances. Declarant has developed the signage plan and turned it over to the Association to maintain. The Association may make reasonable revisions to the signage plan from time to time, but shall not cause a Commercial Owner to change signage which was in compliance with the signage plan at the time of its erection.
- (iv) Flags of the United States of America, North Carolina, and Political Signage. The display of any flag of the United States of America or of North Carolina is permitted in any Unit so long as the flag is no larger than four feet by six feet. Political signs are permitted to be displayed in any Unit, but no more than forty five (45) days prior to, nor seven (7) days after, the election. Except as may be permitted by the local ordinances of the City of Durham or the County of Durham, there shall be only one political sign per Unit displayed, and such sign shall not exceed two feet by two feet.

### 3.5 Assessments for Common Expenses.

- (a) Periodic Assessments for Common Expenses. The Association shall have the power to levy, and all Unit Owners shall be obligated to pay, periodic assessments imposed by the Association to meet all Association Common Expenses. Payment of the

periodic assessments shall be in equal monthly installments on or before the first day of each month, or in such other reasonable manner as the Board shall designate so long as the assessments are levied at least annually. Within thirty (30) days of the Board's adoption of a proposed budget for the Association for the next fiscal year, the Board shall furnish all Unit Owners with a summary of the budget, advise the Owners of the amount of the periodic assessments payable by each of them, and notice the Owners of date and time of the meeting at which budget ratification will be considered, such meeting to be held not less than fourteen (14) and not more than thirty (30) days after the mailing of the budget summary.

- (b) Assessments to Remain in Effect Until New Assessments Made. The omission by the Board before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration and Bylaws or a release of any Unit Owner from the obligation to pay the assessments, or an installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Unit Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his or her or its Unit.
- (c) Special Assessments. All Unit Owners shall be obligated to pay special assessments imposed by the Association to meet the costs of, among other things, capital improvements, repair or replacement of the Common Elements, allocations to reserves and other extraordinary expenses.
- (d) Records. The Board shall keep detailed records of the receipts and expenditures according to the Bylaws, and the Association's financial records shall be available to the Owners as prescribed in the Bylaws. Upon written request from any Eligible Holder, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association for the immediate preceding fiscal year.
- (e) Default in Payment of Assessments. The Board shall take prompt action to collect any periodic and special assessments, or portions thereof, due from any Unit Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof. In the event of default by any Unit Owner in paying any assessments as determined by the Board, such Unit Owner shall be obligated to

pay a late charge of the greater of \$20.00 or 10% of the payment which is late, together with all expenses, including attorney's fees, incurred by the Board in any proceeding brought to collect such unpaid assessments. The Board shall have the right and duty to attempt to recover such assessments, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by N.C.G.S. § 47C-3-116. With regard to the subordinate nature of such liens as it relates to mortgages recorded prior to the recording of any evidence of such lien, the provisions of N.C.G.S. § 47C-3-116(b), as amended, shall be controlling.

- (f) Statement of Assessments or Other Charges. The Board shall, within ten (10) days of a request and for a reasonable fee not to exceed Ten Dollars (\$10.00), promptly provide any purchaser, Unit Owner, lender or prospective lender so requesting the same in writing, with a written statement of all unpaid assessments or other charges due from the Owner of that Unit and the purchaser's liability therefor shall be limited to the amount as set forth in the statement.
- (g) Shared Utilities. The Association shall determine an equitable method of payment for any utility service which serves more than one Unit.

### 3.6 Alterations: Subdivision.

- (a) An Owner may make improvements or alterations within his Unit that do not in any way change the Common Elements or otherwise impair the structural integrity or mechanical systems or lessen the support of any portion of the Buildings.
- (b) Unit Owners may remove the partitions between adjoining Residential Units or adjoining Commercial Units according to N.C.G.S. § 47C-2-111. No partition between a Garage Unit and a Residential or Commercial Unit shall be removed and no aperture made. No partition between a Commercial Unit and a Residential Unit shall be removed and no aperture made. Commercial Unit Owners may relocate boundaries between adjoining Commercial Units by following the procedure set forth in N.C.G.S. § 47C-2-112. No boundary shared by a Residential or Garage Unit shall be relocated. Any removal of partitions between Units, creation of apertures between Units, or relocation of Commercial Unit boundaries shall be subject to below subsection 3.6(d).

- (c) The Commercial Unit may be subdivided according to the terms of this Declaration and N.C.G.S. § 47C-2-113.
- (d) Prior to the commencement of any work to subdivide Units or relocate or remove Unit boundaries, or create any opening between Units, the Unit Owner shall:
  - (i) Notify the association in writing of the intent to commence work and provide for waivers of all mechanics' and materialmens' lien rights which may arise as a result of the alteration if requested by the Association;
  - (ii) Secure all proper governmental permits, including, but not limited to building permits, necessary for the completion of the work;
  - (iii) Purchase insurance insuring against all losses commonly insured against arising out of the work, name Declarant and the Association as additional insureds and provide certificates of insurance with respect to such insurance;
  - (iv) Indemnify and hold the Declarant, the Association and all other Unit Owners harmless from the effect of the work including, but not limited to, any damage resulting from any disturbance to, or compromise of, the structural support of the Building;
  - (v) Minimize the disturbance to other Unit Owners during the work;
  - (vi) Reimburse the Declarant and the Association for any expenses incurred by the Association, including but not limited to legal and other consulting fees; and
  - (vii) Upon completion of the removal or rebuilding of the wall pursuant to the provisions of this subsection 3.6(d), the Unit Owner responsible for the work shall deliver to the Association a copy of the "As Built" plans and specifications certified to by an architect licensed to practice in North Carolina.
- (e) Upon notification by the Unit Owner required in above subsection 3.6(d) for a Unit subdivision or relocation of Unit boundaries, the Association shall prepare, execute, and record an amendment to the Declaration, including plats and plans, accomplishing the subdivision or relocation of Unit boundaries. The amendment shall be executed by each Unit Owner of the Unit(s) affected, assign an identifying number to each Unit created, and reallocate the Fractional Shares according to the formula provided for the allocation of Fractional Shares in this Declaration.

Declarant hereby reserves the right to enforce the provisions of this subsection at law or equity.

#### **ARTICLE IV** **COMMON ELEMENTS**

4.1 Common Elements. The real estate which comprises the Common Elements as of the recording of this Declaration is all of the Property except the Units. In addition to all of the rights reserved to Declarant hereunder, Declarant specifically reserves the right to improve, upgrade, expand, modify and enlarge the Common Elements, including the addition of certain easement rights in favor of Declarant. Subject to the other provisions of this Declaration, the Association shall be responsible for the maintenance, replacement and repair of the Common Elements and the cost for such maintenance, repair or replacement shall be borne by all the Unit Owners.

4.2 Limited Common Elements. The Limited Common Elements are identified and allocated as follows:

- (a) The Limited Common Elements specified in section N.C.G.S. § 47C-2-102(2) (being any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture which lies partially within and partially outside the designated boundaries of a Unit, or any portion thereof serving only that Unit) are allocated to the Units served by those Limited Common Elements.
- (b) The Limited Common Elements specified in section N.C.G.S. § 47C-2-102(4) (being any shutter, awning, window box, doorstep, stoop, deck, porch, balcony, patio and all exterior doors, windows or other fixtures designated to serve a single Unit but located outside the Unit's boundaries) are allocated to the Units served by those Limited Common Elements.
- (c) Hallways, stairwells, and landings which serve some but fewer than all of the Units are Limited Common Elements allocated to the Units served by those Limited Common Elements. These are shown on the Plat.
- (d) All portions of heating, ventilation and air conditioning ("HVAC") systems lying outside the boundaries of Units are Limited Common Elements allocated to the Unit(s) served by those systems.
- (e) There are six storage closets (the "Storage Closets") located on the ground floor of the Front Building at its southern end. Each of these Storage Closets is a Limited Common Element allocated to a

Unit for the exclusive use of that Unit Owner. The Plat shows the specific Unit to which each Storage Closet is allocated, those Units being 201, 301, 206, 204, 303, and 304.

Subject to the other provisions of this Declaration, the Association shall be responsible for the maintenance, replacement and repair of the Limited Common Elements and the cost for such maintenance, repair or replacement shall be borne by the Unit Owner so benefited by the Limited Common Element, as more specifically set forth in the Bylaws. Unit Owners shall be directly responsible for arranging for the maintenance, repair or replacement of their HVAC systems and for payment of the same.

4.3 Parking. Parking of automobiles, boats, campers, trucks or any other type of vehicle is prohibited anywhere in the Condominium except inside the Garage Units and inside the enclosed garages which are within the Residential Units in the Back Building; provided however, that parking scooters and bicycles is permitted in the area designated for such parking by the Association and subject to other reasonable regulations which may be imposed by the Association.

4.4 Conveyance or Encumbrance of Common Elements. Portions of the Common Elements may be conveyed or subjected to a security interest by the Association if the Owners entitled to cast at least 80% of the votes in the Association, including 80% of the votes allocated to Units not owned by Declarant, agree to that action; provided, that all the Units Owners to which any Limited Common Element is allocated must agree in order to convey such Limited Common Element or subject it to a security interest. The procedure for conveying or encumbering a portion of the Common Elements and distributing the proceeds, if any, shall be that set forth in N.C.G.S. § 47C-3-112.

4.5 Sidewalks. Each Commercial Unit Owner shall have the right to make reasonable use of that portion of sidewalk which is Common Elements and which lies immediately in front of and adjacent to its Commercial Unit. Any such use of the sidewalk under this Section 4.5 shall be incident to the normal operations of the business located within the Commercial Unit and shall not impede the ingress, egress, or regress of any Unit Owner or their tenants or guests. The Association shall have the authority to make reasonable rules governing this use of the sidewalk; provided, however, that any amendment to this Declaration which revokes this right of the Commercial Unit Owner to use the sidewalk shall require the consent of all five votes allocated to the Commercial Units.

**ARTICLE V**  
**AMENDMENT AND TERMINATION OF CONDOMINIUM**

5.1 Amendment of Declaration.

- (a) Except in cases of amendments by the Declarant, the Association, or certain Unit Owners pursuant to the exceptions provided in N.C.G.S. § 47C-2-117(a), the Declaration may be amended only by vote or agreement of Owners to which at least 75% of the total votes in the Association are allocated. Provided, however, where the act or approval of a greater percentage of the vote of Unit Owners is expressly required by this Declaration, the Act, or the Association's Articles of Incorporation or Bylaws, this Declaration may not be amended to decrease such greater percentage of votes without the consent of Unit Owners holding that greater percentage of votes. Any amendment purporting to vitiate, reduce, or impair any right of Declarant shall be void and of no effect unless executed by Declarant.
- (b) Every amendment shall be prepared, executed, recorded and certified by the Association and shall be effective only when recorded in the Durham County Registry.
- (c) Subject to the exceptions of N.C.G.S. § 47C-2-117(a), no amendment which changes the boundaries on any Unit or which alters the Allocation of Common Elements and Common Expenses for a Unit shall be valid unless the same has been signed or consented to by the Owner(s) so affected.
- (d) Notwithstanding the foregoing, this Declaration may be amended by the Declarant or Association without the consent of any Owner in order to comply with any provisions of law or to correct manifest errors herein; and any such amendment, upon execution and certification by the Declarant or Association and recording by the Durham County Registry, shall be effective upon recording. In addition, for so long as Declarant has the right to appoint the majority of the members of the Executive Board of the Association and to the extent permitted by law, this Declaration and the other Condominium Documents may be amended by the Declarant without the consent of any Owner in order to comply with the rules, regulations and policy statements promulgated and issued by the U.S. Department of Housing and Urban Development, the Veterans' Administration, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association

- (e) No amendment shall reduce or impair any rights reserved by the Declarant without the consent and joinder of Declarant.
- (f) Notwithstanding anything herein to the contrary, certain types of amendments to this Declaration must be approved by certain mortgagees of Unit Owners as set forth in Article XIII hereof.

5.2 Termination. Subject to Article XIII hereof, the dedication of the Property to the Condominium herein shall not be revoked, or the Property removed from the Act except that the Condominium may be terminated and the Property removed from the provisions of the Act by unanimous agreement of Unit Owners, as evidenced by execution of a termination agreement, or ratification thereof, by such Owners, provided that all the mortgagees of the Units (including those mortgagees of Unit Owners who did not consent) are provided with thirty (30) days prior written notice of such termination. Except as otherwise provided for herein, termination of the Condominium shall be in accordance with the Act.

5.3 Statutory Compliance. No amendment or termination that is contrary to, or inconsistent with, any requirements or provisions of the Act shall be valid.

## **ARTICLE VI**

### **ALLOCATION OF INTEREST IN COMMON ELEMENTS AND COMMON LIABILITIES; VOTES IN ASSOCIATION**

6.1 Interest in Common Elements and Common Expense Liability. The allocated interest of the title and interest appurtenant to each Unit and the Unit Owner's title and interest in the Common Elements of the Property and the proportionate share in the revenues, if any, and common monthly expenses (collectively referred to herein as the "Fractional Share") shall be the fraction having a numerator that is the square feet contained in that Unit and a denominator that is the total square feet of all the Units. The square footage of each Unit is shown on the Plat. The Fractional Shares for all Units are set forth on Exhibit B, Table 1 and are expressed in percentages. The Fractional Shares may be reallocated from time to time pursuant to a relocation of Unit boundaries or subdivision of Units according to the terms of this Declaration.

The relative liabilities of the Units for Residential Expenses, Garage Expenses and Commercial Expenses are set forth expressed as percentages on Exhibit B, Tables 2, 3 and 4 respectively. These liabilities are calculated based on the relative square footages of the Units liable with the application of two special rules: (i) in the case of calculating the Garage Expenses, the denominator shall be the aggregate square footages of the Garage Units and garages within the Residential Units in the Back Building, and (ii) in the case of calculating the Residential Expenses, the denominator shall not include the square footages of the garages within the Residential Units in the Back Building.

6.2 Votes Allocated to Units. The votes in the Association allocated to the various Units which are created by the recording of this Declaration are shown on Exhibit B.

(a) Each Residential Unit in the Front Building (representing all the Residential Units without garages in the Units) shall have one (1) vote in the Association.

(b) Each Residential Unit in the Back Building (representing all the Residential Units with garages in the Units) shall have a one and one-fifteenth (1 1/15) vote in the Association.

(c) The Commercial Unit(s) shall together have five (5) votes in the Association. In the event there is only one Commercial Unit comprising all the commercial space, then it shall be allocated all five (5) votes. In the event the Commercial Unit is subdivided, the resulting Commercial Units shall each have a vote(s) in the Association based on the relative square footages of each of the resulting Commercial Units. For example, if the portion of the Condominium comprised of the Commercial Unit(s) is subdivided into two (2) Commercial Units of equal size, then each of the resulting Units shall have 2.5 votes in the Association.

(d) Each Garage Unit shall have a one-fifteenth (1/15) vote in the Association.

## **ARTICLE VII** **ADMINISTRATION AND BYLAWS**

7.1 Association; Bylaws. Declarant has caused to be incorporated under the laws of the State of North Carolina a nonprofit corporation known as Mangum 506 Condominium Association. Each Unit Owner shall have voting rights in the Association as set forth in Article VI hereof. The administration of the Condominium, and consequently of the Association, shall be in accordance with the provisions of the Bylaws.

7.2 Automatic Membership in Association. Each Unit Owner shall automatically become and be a member of the Association upon being conveyed a fee interest in a Unit. In the event that a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all the record Owners of said Unit and filed with the Secretary of the Association. Further, should such Unit Owner be a corporation, limited liability company, partnership, trust, unincorporated association or other entity, said corporation, limited liability company, partnership, trust, unincorporated entity or other entity must designate, in a certificate signed by an officer, manager, partner or other authorized representative of such entity, the name of the individual authorized to vote on behalf of such entity, which certificate shall be filed with the Secretary of the Association. All such certificates shall be valid until revoked, superseded by a subsequent certificate, or until there has been a change in ownership of the Unit concerned. If such certificate is not filed with the Secretary of the

Association, the Association shall be entitled to recognize and rely upon the authority of any individual who states that he or she represents such entity with respect to matters involving such entity's membership in the Association, including the right to vote, unless the lack of authority of such individual is manifest.

**ARTICLE VIII**  
**GENERAL CONDITIONS; MISCELLANEOUS MATTERS**

8.1 Common Elements Not Partitioned. Unless otherwise herein provided, the Common Elements and Limited Common Elements shall remain undivided and no Unit Owner shall bring any action for partition and/or division of same.

8.2 Common Elements Not Severable from Units. The undivided interest in the Common Elements and Limited Common Elements shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

8.3 Provisions and Covenants Applicable to Units. Each Unit Owner shall comply with the provisions this Declaration, all exhibits hereto, and authorized amendments hereto. The failure to comply with such provisions, decisions, or resolutions shall be grounds for an action to recover sums due for damages or for injunctive relief. The Units shall also be conveyed subject to the recorded Plat for the Property and amendments thereto. The acceptance of a deed of conveyance or the entering into of a lease for any portion of the Property or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and any Rules and Regulations which may be adopted by the Association are accepted and ratified by such Owner, tenant or occupant, and an agreement that such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit as though such provisions were made a part of each and every deed of conveyance or lease.

8.4 Nonuse Not Exemption of Liability for Common Expenses. No Unit Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of his Unit.

8.5 All Users of Property Subject to Declaration. All present or future Unit Owners and any other person that might use the facilities of the Property in any manner, including those who may lease a Unit from the Declarant, are subject to the provisions of this Declaration and any authorized amendments thereto, and the mere acquisition or rental of any of the Units shall signify that the provisions of this Declaration and any authorized amendment thereto are accepted and ratified.

8.6 Assessments Subordinate to Mortgagee Taking Title. Where a mortgagee or other purchaser of a Unit obtains title by reason of foreclosure or deed in lieu of

foreclosure of a deed of trust encumbering a Unit, such acquirer of title, his or its heirs, successors, assigns or grantees, shall not be liable for assessments by the Association which became due prior to the acquisition of title by such acquirer, it being understood however, that this section shall not be construed to prevent the Association from filing and claiming liens for such unpaid assessments and enforcing the same as provided by law, and provided that such assessments shall be subordinate to such deed of trust. Any sale or transfer of a Unit pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, nor the Unit so sold or transferred from, any Common Expenses thereafter becoming due.

8.7 Condemnation. In the event of an action for eminent domain or a condemnation of all or a portion of the Property which is subject to this Condominium, the award for such taking shall be distributed in accordance with the procedure set forth in N.C.G.S. § 47C-1-107.

8.8 Non-waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

8.9 Gender and Number. The use of the feminine gender in this Declaration shall be deemed to refer to the masculine and neuter gender, and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

8.10 Applicable Law; Interpretation. This Declaration is set forth to comply with the requirements of the Act as presently constituted or as hereafter amended. In case any of the provisions stated above conflict with the provisions of the Act, the provisions of the Act shall control. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best affect consummation of the general plan of land use restrictions and affirmative obligations of the Property, which will carry out the intent of the Declarant as expressed herein, and which will preserve the Property as a site for an attractive, well-maintained, mixed use community.

Should any provision of this Declaration or any section, paragraph sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of the highest court or other tribunal which considers such matters and has jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable.

Contrary to the restrictive common law rule of construction, this Declaration shall by this covenant be interpreted broadly to touch and concern the Property with recognition of modern economic, land use planning and real estate finance and development principles, theories and practices. It is the Declarant's intent, and all Owners who take subject to this Declaration to covenant and agree and are thereby estopped to deny, that any reserved right or function of the Declarant and/or Association, and any other covenant, condition, restriction or obligation within this Declaration is

intended to promote the use and enjoyment of the Property, is intended to foster the creation, preservation or enhancement of economic or intangible value associated with the Property, and does touch and concern, benefit and burden and run with the Property.

8.11 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provisions hereof.

8.12 Exhibits - All the exhibits to this Declaration shall be an integral part of this instrument and are hereby incorporated by reference.

## **ARTICLE IX**

### **INSURANCE; RECONSTRUCTION AND REPAIR**

9.1 Insurance. The Association shall be required to obtain and maintain insurance policies that include the minimum coverages of (i) 100% replacement coverage on the Building, including the Units, less a commercially reasonable deductible amount, (ii) liability insurance coverage of at least \$1,000,000 per occurrence and \$2,000,000 per accident, and (iii) fidelity bond coverage covering the Executive Board members, officers and employees of the Association in a reasonable amount. The Association shall be required to insure all the Units at 100% replacement coverage; however, the Association shall not be responsible for insuring improvements and betterments made to those Units by the Unit Owners. Additional provisions governing insurance are contained in the Bylaws.

9.2 Insurance Obtained by Owners. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his Unit, his personal property, public liability insurance, and such other insurance coverage as he may desire. Each Residential Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$500,000 for bodily injury, including death, of persons and property damage, arising out of a single occurrence. Each Commercial Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$1,000,000 per occurrence, and at least \$2,000,000 in the aggregate, for bodily injury, including death, of persons and property damage. The Commercial Owners' policies shall contain provisions waiving any right of the insurer to subrogation claims against the Association and against Unit Owners and their household members, employees and invitees, as well as their tenants and such tenant's employees and invitees, and all Owner's insurance policies shall waive any right of the insurer to contribution or proration because of the Association's casualty and public liability policy.

At the request of the Association or Declarant, each Owner shall certify at the closing of the purchase of a Unit that such an individual policy has been obtained.

9.3 Reconstruction. In the event of casualty loss or damage to the Property the provisions of N.C.G.S. § 47C-3-113(h) shall govern all matters pertaining to reconstruction and repair.

**ARTICLE X**  
**EASEMENTS**

10.1 Reserved Easements. The Declarant expressly reserves such easements through the Common Elements as described in N.C.G.S. § 47C-2-116. The Association shall have the right at any time to grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water lines, pipes, ducts, sewer lines, gas mains, telephone and television or cable television wires, cables and equipment, electrical conduits, and wires over, under, along and on any portion of the Common Elements. Easements for installation and maintenance of utilities and drainage facilities, if any, are also reserved as shown on the Plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may obstruct or change the flow of drainage channels in the easements.

10.2 Easement for Encroachment. If any portion of the Common Elements now encroaches upon any Unit or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if any such encroachments shall occur hereafter as a result of (a) settling of the Buildings; (b) alteration or repair to the Common Elements made by or with consent of the Association; (c) repair or restoration of a Building or any Unit made necessary because of damage by fire or other casualty; or (d) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Building(s) stand.

10.3 Other Condominium Easements. Each Unit Owner shall have a nonexclusive easement in common with all Unit Owners to use the Common Elements, including all pipes, wires, ducts, flues, cables, conduits, public, utility lines and other Common Elements, if any, located in any of the other Units and serving his Unit. To the extent that there are Common Elements within Units, each Unit shall be subject to a nonexclusive easement in favor of all other Unit Owners to use the pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Association shall have the right of access to each Unit to inspect the same to remove violations therefrom and to maintain, repair or replace Common Elements contained therein or elsewhere on the Property.

10.4 Construction Easement. Declarant shall also have such easements through the Common Elements as may be reasonably necessary for the purpose of discharging the Declarant's obligations or exercising Special Declarant Rights as provided herein.

10.5 Emergency. The Association shall have a right of entry upon the Common Elements, Units and any Limited Common Elements to make emergency repairs or to carry out its duties to address emergencies, and a reasonable right of entry upon the Units to effect other repairs, improvements, replacement or maintenance made for the benefit of the Unit entered or another Unit.

10.6 Appurtenant. All easements granted herein are appurtenant to and shall run with the land, and shall inure to the benefit of and be binding upon the Declarant, the Association, Owners, occupants, mortgagees, and any other person or entity having an interest in the Condominium.

## **ARTICLE XI** **LENDER CONSENT**

The Land and the Buildings are currently encumbered by the lien of that deed of trust dated August 28, 2008 as amended, executed and delivered by Declarant to Lawrence T. Loeser as Trustee, for the benefit of Harrington Bank, FSB and recorded in Book 6050, Page 341, Durham County Registry. A Consent of Lender executed by said Trustee and said Bank consenting to the execution and recordation of this Declaration is attached hereto as Exhibit C and made a part of this Declaration.

## **ARTICLE XII** **GENERAL ASSOCIATION MATTERS**

12.1 Powers of Executive Board. All powers granted in the Declaration or the Bylaws to the Association shall be exercisable by the Executive Board, except as otherwise expressly provided in the Declaration, the Bylaws, or the Act.

12.2 Rules and Regulations. The Association may adopt and enforce reasonable Rules and Regulations not in conflict with the Declaration and supplementary thereto, as more fully provided in the Bylaws. A copy of the Rules and Regulations that exist as of the filing of this Declaration are attached to the Bylaws as an appendix.

12.3 Enforcement by Association. The Association shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws and Articles of Incorporation of the Association. Failure by the Association to enforce any covenant or restrictions therein shall in no event be deemed a waiver of the right to do so thereafter.

Upon notice to the Association of a violation hereunder and a failure of the Association to take action upon said violation within ninety (90) days, any Owner, or other holder of an interest in the Condominium may undertake the enforcement of the provisions of the Declaration at his own expense.

## **ARTICLE XIII** **RIGHTS OF FIRST LIEN HOLDERS**

This Article XIII shall govern notwithstanding any other provision of the Condominium Documents, and to the extent that there is a conflict between any other provision of the Condominium Documents and this Article XIII, this Article XIII shall control.

13.1 Notices of Action. A holder, insurer or guarantor of a first mortgage on a Unit which is entitled to the certain rights set forth in Section 9 of HUD Handbook 4265.1, Chg 4, Appendix 24 issued by the U.S. Department of Housing and Urban Development and which has given to the Association a written request stating the name and address of such holder, insurer or guarantor and the Unit number (hereinafter referred to as an "Eligible Holder"), will be entitled, and the Executive Board shall cause to be delivered, timely written notice of the following:

(a) any proposed amendment of the Condominium Documents effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses thereto; (iii) the Common Interests allocated to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted;

(b) any proposed termination of the Condominium;

(c) any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a first mortgage held, insured or guaranteed by an Eligible Holder;

(d) any delinquency in the payment of assessments or charges owed by a Unit Owner subject to the mortgage that is held, insured or guaranteed by an Eligible Holder, where such delinquency has continued for a period of sixty (60) days; or

(e) Any lapse, cancellation or material modification of any insurance policy maintained by the association pursuant to Article IX hereof.

13.2 Approval Rights of Eligible Holders. The approval of Eligible Holders shall be required in the instances hereinafter set forth:

(a) Termination of Condominium.

(i) Upon Casualty or Condemnation. Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Property requires the approval of the Eligible Holders of first mortgages on Units to which at least fifty one-percent (51%) of the votes of Units subject to mortgages held by such Eligible Holders are allocated.

(ii) In Absence of Casualty or Condemnation. In any election to terminate the Condominium in the absence of substantial destruction or a substantial taking in condemnation of the Property, the approval of the Eligible Holders of first mortgages on Units to which at least sixty seven percent (67%) of the votes of Units subject to a mortgage appertain shall be required to terminate the Condominium.

(b) Restoration or Repair. Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval is obtained of the Eligible holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders are allocated.

(c) Amendment of Condominium Documents. The approval of the Eligible Holders of first mortgages on Units to which at least fifty one percent (51%) of the votes of Units subject to a mortgage appertain, shall be required to amend materially any provisions of the Condominium Documents or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

- (i) Voting;
- (ii) Assessments, assessment liens or subordination of such  
liens;
- (iii) Reserves for maintenance, repair and replacement of the  
Common Elements;
- (iv) Insurance or fidelity bonds;
- (v) Rights to the use of Common Elements;
- (vi) Responsibility for maintenance and repair of the Common  
Elements;
- (vii) Expansion or contraction of the Condominium or the  
addition, annexation or withdrawal of property to or from the Condominium;
- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Elements or Limited  
Common Elements;
- (x) Convertibility of Units into Common Elements or of  
Common Elements into Units;
- (xi) Leasing of Units;
- (x) Imposition of any right of first refusal or similar restriction  
on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit in the  
Condominium;
- (xi) Establishment of self-management by the Association  
where professional management has been required by HUD, VA, FHA, FNMA, FHLMC,  
or Ginnie Mae; or
- (xii) Any amendment to a provision in the Condominium  
Documents which is for the express benefit of holders or insurers of first mortgages on  
Units.

*[Signature Page Follows]*

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the day and year first above written.

DECLARANT:

M506, LLC

By: P & A Holdings, LLC, its Manager

By: [Signature]  
Name: J A PHILIPPS  
Title: Manager

STATE OF NORTH CAROLINA  
COUNTY OF Durham

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

J. A. Philipps

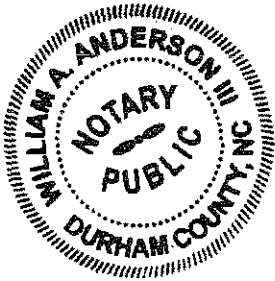
Date: 7/2/09

[Signature]  
Notary Public

Print Name: William A. Anderson III

[Official Seal]

My commission expires: 1/27/14



**EXHIBIT A  
TO  
DECLARATION  
OF  
MANGUM 506 CONDOMINIUM**

**Legal Description of Property**

All of that certain parcel of property lying and being in the City of Durham, Durham County, North Carolina, at the northeastern corner of the intersection of N. Mangum Street (60' public right of way) and E. Seminary Avenue (variable width public right of way) having Durham County Parcel Identification Number 110428, and being more particularly described as follows:

BEING all of that parcel containing 22,262 square feet as shown on the plat entitled "Mangum 506 Condominiums - M506, LLC" recorded in Condominium Plat Book 11, Page 207, Durham County Registry.

**EXHIBIT B  
TO  
DECLARATION  
OF  
MANGUM 506 CONDOMINIUM**

**Fractional Shares; Votes Allocated to Units; Liabilities for Residential Expenses,  
Garage Expenses and Commercial Expenses**

This Exhibit B is comprised of four tables as follows:

Table 1 shows the Fractional Shares of each Unit for purposes of calculating the expenses common to all the Units and for the purpose of determining the interest in the Common Elements allocated to each unit. Table 1 also shows the votes in the Association allocated to each Unit.

Table 2 shows the expense liability of each Residential Unit for purposes of calculating the Residential Expenses.

Table 3 shows the expense liability of each Garage Unit for purposes of calculating the Garage Expenses. At the time of recording of the Declaration, there are no Garage Expenses, but if the Association in a future budget finds it necessary to assess Garage Expenses, then it shall use the percentages set forth in Table 3.

Table 4 shows the expense liability of the Commercial Units for purposes of calculating the Commercial Expenses. If the Commercial Unit(s) are subdivided, then this table will be amended accordingly.

**EXHIBIT B CONTINUED**

Table 1: Fractional Shares for Allocation of Common Expenses, Interests in Common Elements, and Votes in the Association Allocated to Each Unit

Building	Unit Number	Unit SF	Fractional Share	Votes Allocated	
Front	CU-1	566	2.27%	1 1/5	
	CU-2	444	1.78%	1 1/5	
	CU-3	416	1.67%	1 1/5	
	CU-4	1095	4.39%	1 2/5	
	101	730	2.93%	1	
	201	807	3.24%	1	
	202	1127	4.52%	1	
	203	1110	4.45%	1	
	204	770	3.09%	1	
	206	770	3.09%	1	
	208	946	3.79%	1	
	209	901	3.61%	1	
	301	807	3.24%	1	
	302	1127	4.52%	1	
	303	1072	4.30%	1	
	304	905	3.63%	1	
	305	1220	4.89%	1	
		Garage A	274	1.10%	1/15
		Garage B	274	1.10%	1/15
		Garage C	274	1.10%	1/15
		Garage D	326	1.31%	1/15
		Garage E	271	1.09%	1/15
		Garage F	271	1.09%	1/15
	Garage G	271	1.09%	1/15	
Back	401	1018	4.08%	1 1/15	
	402	1022	4.10%	1 1/15	
	403	1022	4.10%	1 1/15	
	404	1022	4.10%	1 1/15	
	405	1022	4.10%	1 1/15	
	406	1022	4.10%	1 1/15	
	407	1022	4.10%	1 1/15	
	408	1018	4.08%	1 1/15	
	<b>TOTALS</b>	<b>24942</b>	<b>100.00%</b>	<b>27</b>	

**EXHIBIT B CONTINUED**

Table 2: Expense Liability of Each Residential Unit for Residential Expenses

Building	Unit Number	Unit SF	Fractional Share	
Front	101	730	4.22%	
	201	807	4.66%	
	202	1127	6.51%	
	203	1110	6.41%	
	204	770	4.45%	
	206	770	4.45%	
	208	946	5.47%	
	209	901	5.21%	
	301	807	4.66%	
	302	1127	6.51%	
	303	1072	6.19%	
	304	905	5.23%	
	305	1220	7.05%	
	Back	401	627	3.62%
		402	627	3.62%
403		627	3.62%	
404		627	3.62%	
405		627	3.62%	
406		627	3.62%	
407		627	3.62%	
408		627	3.62%	
TOTALS		17308	100.00%	

**EXHIBIT B CONTINUED**

Table 3: Expense Liability of Each Garage Unit for Garage Expenses

Building	Unit Number	Unit SF	Fractional Share
Front	Garage A	274	5.36%
	Garage B	274	5.36%
	Garage C	274	5.36%
	Garage D	326	6.38%
	Garage E	271	5.30%
	Garage F	271	5.30%
	Garage G	271	5.30%
Back	401	391	7.65%
	402	395	7.73%
	403	395	7.73%
	404	395	7.73%
	405	395	7.73%
	406	395	7.73%
	407	395	7.73%
	408	391	7.65%
	<b>TOTALS</b>	<b>5113</b>	<b>100.00%</b>

**EXHIBIT B CONTINUED**

Table 4: Expense Liability of Each Commercial Unit for Commercial Expenses

Building	Unit Number	Unit SF	Fractional Share
Front	CU-1	566	22.45%
	CU-2	444	17.61%
	CU-3	416	16.50%
	CU-4	1095	43.44%
	TOTALS	2521	100.00%

These tables may be amended from time to time in accordance with the Declaration.



IN WITNESS WHEREOF, Lender and Trustee have caused this instrument to be executed and effective as of the day and year first above written.

LENDER:

Harrington Bank, FSB

By: [Signature]  
Name: CHRIS LAWRENCE  
Title: \_\_\_\_\_

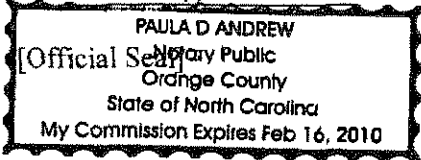
TRUSTEE:

[Signature]  
Lawrence T. Loeser

STATE OF NORTH CAROLINA  
COUNTY OF Orange

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Chris Lawrence  
Date: 7/7/09



[Signature]  
Notary Public

Print Name: Paula D. Andrew

My commission expires: Feb. 16, 2010

STATE OF NORTH CAROLINA  
COUNTY OF Orange

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

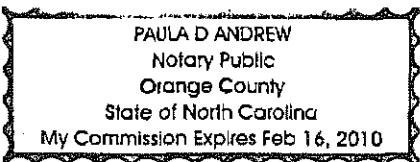
Lawrence T. Loeser  
Date: 7/7/09

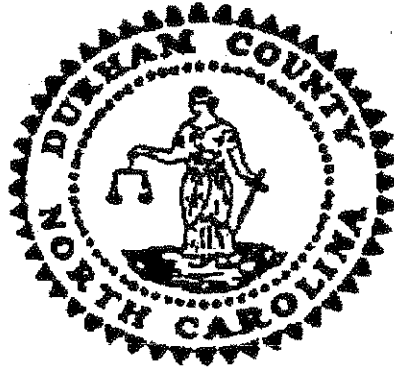
[Official Seal]

[Signature]  
Notary Public

Print Name: Paula D. Andrew

My commission expires: Feb. 16, 2010





WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
DURHAM, NC 27701

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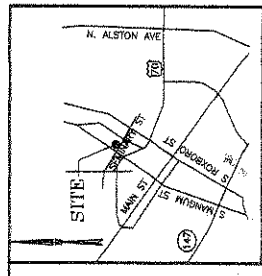
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DECL 39 PGS \$125.00  
Recorder: SHARON M CEARNEL



2009024414

THIS SURVEY AND THE PLANS THAT REFER TO IN THE DECLARATION OF UNIT OWNERSHIP FOR MANGUM 506 CONDOMINIUMS IN DURHAM COUNTY, NORTH CAROLINA

PER N.C. GEN. STAT. § 47E-10 (REVISOR 07/08)  
 MANGUM 506 CONDOMINIUMS  
 DURHAM COUNTY, NC



I, RONALD J. CASSEL, CERTIFY THAT THIS SURVEY AND THE PLANS THAT REFER TO IN THE DECLARATION OF UNIT OWNERSHIP FOR MANGUM 506 CONDOMINIUMS IN DURHAM COUNTY, NORTH CAROLINA, WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF NORTH CAROLINA. I AM NOT PROVIDING ANY GUARANTEE OR WARRANTY OF ANY KIND FOR THIS SURVEY AND THE PLANS THAT REFER TO IN THE DECLARATION OF UNIT OWNERSHIP FOR MANGUM 506 CONDOMINIUMS IN DURHAM COUNTY, NORTH CAROLINA.

AS WITNESSED, I HAVE CAUSED THIS SURVEY AND THE PLANS THAT REFER TO IN THE DECLARATION OF UNIT OWNERSHIP FOR MANGUM 506 CONDOMINIUMS IN DURHAM COUNTY, NORTH CAROLINA, TO BE SIGNED AND SEALED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF NORTH CAROLINA. I AM NOT PROVIDING ANY GUARANTEE OR WARRANTY OF ANY KIND FOR THIS SURVEY AND THE PLANS THAT REFER TO IN THE DECLARATION OF UNIT OWNERSHIP FOR MANGUM 506 CONDOMINIUMS IN DURHAM COUNTY, NORTH CAROLINA.

REDACTED PLANNING COMMISSION  
 CITY OF DURHAM  
 PARCEL ID: 116492  
 O.R. 337297

THIS PLAN HAS BEEN CERTIFIED FOR RECORDED BY THE DURHAM CITY-COUNTY PLANNING DEPARTMENT  
 ON: July 1, 2009  
 Planning Director of Design

Null and void if not recorded within 180 days, or by October 1, 2009

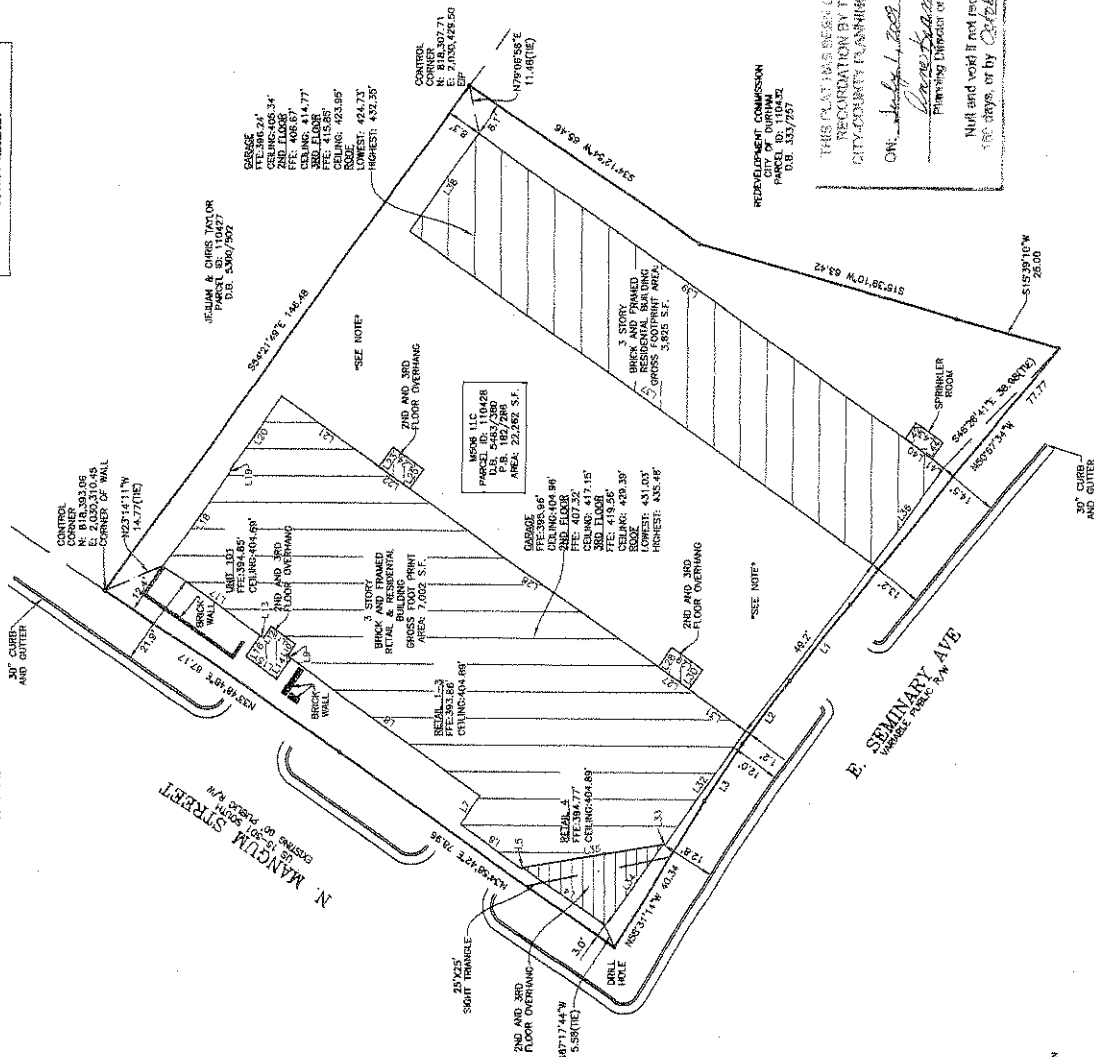
FINAL PLAT OF CONDOMINIUM FOR

**MANGUM 506 CONDOMINIUMS**  
**M506.LLC**  
 506 MANGUM STREET  
 SHEET 1 OF 6

CITY OF DURHAM, DURHAM TOWNSHIP, DURHAM COUNTY, NORTH CAROLINA

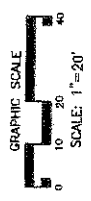
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 Fax: (919) 480-6185

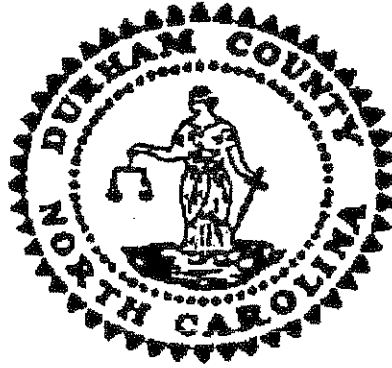
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 Revision:



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L1	N87°31'24\"	14.36
L2	N87°31'24\"	14.36
L3	N87°31'24\"	16.16
L4	N87°11'44\"	23.35
L5	N87°46'18\"	0.40
L6	N87°11'44\"	8.00
L7	N87°11'44\"	8.00
L8	N87°11'44\"	55.05
L9	N87°11'44\"	0.95
L10	N87°46'18\"	7.95
L11	N87°46'18\"	5.25
L12	N87°11'44\"	5.25
L13	N87°11'44\"	0.95
L14	N87°46'18\"	6.00
L15	N87°11'44\"	9.10
L16	N87°11'44\"	28.15
L17	N87°11'44\"	28.15
L18	S87°46'18\"	27.22
L19	N87°11'44\"	0.30
L20	S87°46'18\"	21.43
L21	S87°11'44\"	8.97
L22	S87°11'44\"	8.97
L23	S87°46'18\"	5.00
L24	S87°05'28\"	8.92
L25	N87°05'28\"	5.00
L26	S87°11'44\"	8.97
L27	S87°11'44\"	8.97
L28	S87°05'28\"	5.00
L29	S87°05'28\"	8.92
L30	N87°05'28\"	5.00
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L39	S87°05'28\"	13.15
L40	S87°05'28\"	8.00
L41	S87°05'28\"	8.00
L42	S87°05'28\"	4.58
L43	S87°05'28\"	8.03
L44	N87°21'57\"	4.87

ALL LINEAR DIMENSIONS HEREON ARE SHOWN IN FEET AND DECIMALS OF A FOOT.  
 SUBJECT PROPERTY IS ZONED CO  
 SUBJECT PROPERTY IS LOCATED IN THE DOWNTOWN DEVELOPMENT TIER.  
 SUBJECT PROPERTY IS LOCATED IN THE DOWNTOWN DESIGN OVERLAY Z.  
 SUBJECT PROPERTY LIES WITHIN THE WEDGE RAKER BASIN.  
 SUBJECT PROPERTY DOES NOT LIE WITHIN A WATERSHED PROTECTION DISTRICT.  
 SUBJECT PROPERTY LIES WITHIN FLOOD ZONE X-FRET FROM FLOOD INSURANCE RATE MAP PANEL 312605100D DATED 8/17/2009





WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
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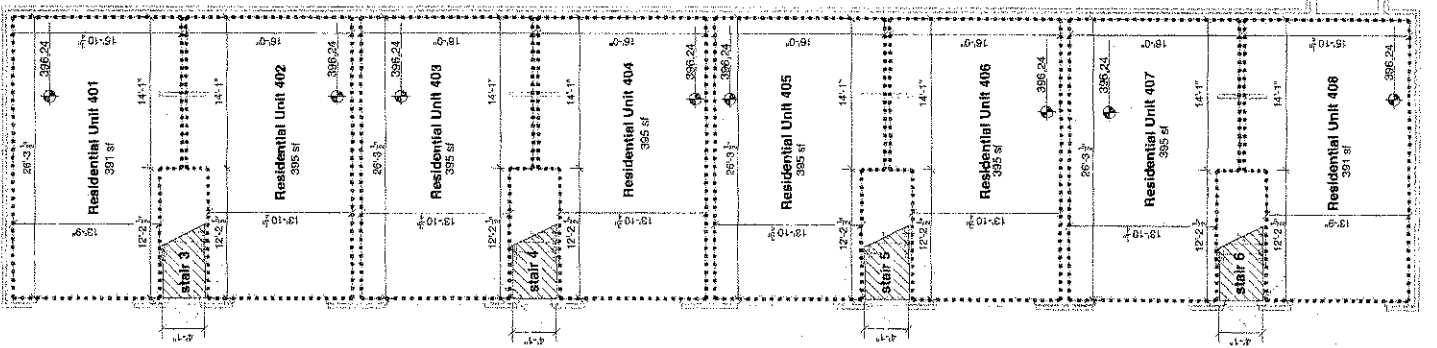
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 www.centerstudioarchitect.com  
 Center Durham, N.C. 27610-7100

# Mangum 506 Condominiums

506 n. mangum st., Durham, nc

I, Gerald Scott Harmon, an Architect licensed under the provisions of Chapter 83A of the North Carolina General Statutes, do hereby certify that these Plans contain all of the information required by Chapter 47C-2-109 of the North Carolina General Statutes. Such Plans fully and accurately depict the layout, location, design and construction of all structural and mechanical systems of all buildings containing or comprising any units are substantially completed in accordance with the Plans.

*J. Harmon*  
 4/2/09

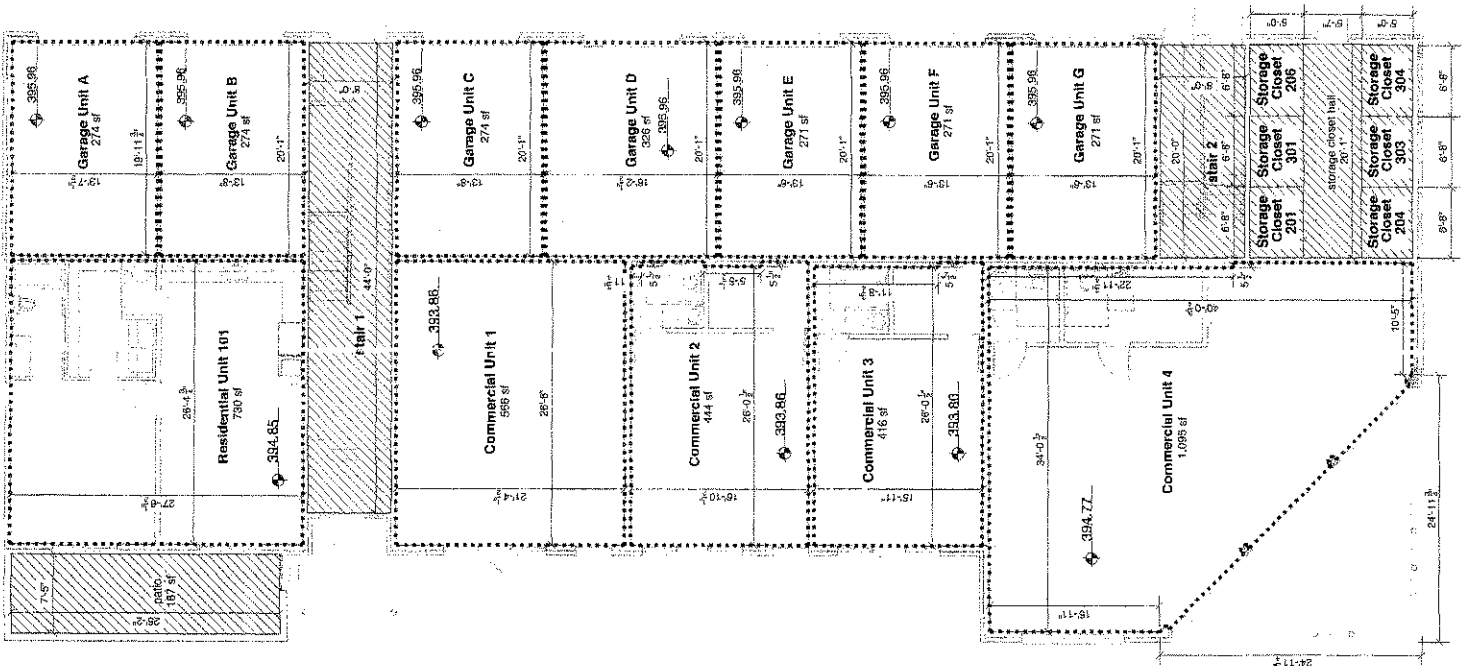


square footage table

unit number	square feet
Commercial Unit 1	566 sf
Commercial Unit 2	446 sf
Commercial Unit 3	416 sf
Commercial Unit 4	1,095 sf
Garage Unit A	274 sf
Garage Unit B	274 sf
Garage Unit C	274 sf
Garage Unit D	274 sf
Garage Unit E	271 sf
Garage Unit F	271 sf
Garage Unit G	271 sf
Residential Unit 101	780 sf
Residential Unit 201	807 sf
Residential Unit 202	1,127 sf
Residential Unit 203	1,110 sf
Residential Unit 204	766 sf
Residential Unit 206	766 sf
Residential Unit 209	946 sf
Residential Unit 301	803 sf
Residential Unit 302	1,127 sf
Residential Unit 303	1,072 sf
Residential Unit 304	905 sf
Residential Unit 305	1,220 sf
Residential Unit 401	1,018 sf
Residential Unit 402	1,022 sf
Residential Unit 403	1,022 sf
Residential Unit 404	1,022 sf
Residential Unit 405	1,022 sf
Residential Unit 406	1,022 sf
Residential Unit 407	1,022 sf
Residential Unit 408	1,018 sf

Limited Common Element

first floor plan  
 scale: 1/8" = 1'-0"





WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
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 DURHAM, NORTH CAROLINA

I, Jerard Scott Harmon, an Architect licensed under the provisions of Chapter 82A of the North Carolina General Statutes, do hereby certify that these Plans are true and correct copies of the original. Such Plans fully and accurately depict the layout, location, ceiling and floor elevations, unit numbers and dimensions of Mangum 506 Condominiums, as built. All structural components and mechanical systems of all buildings containing or comprising any units are substantially completed in accordance with the Plans.

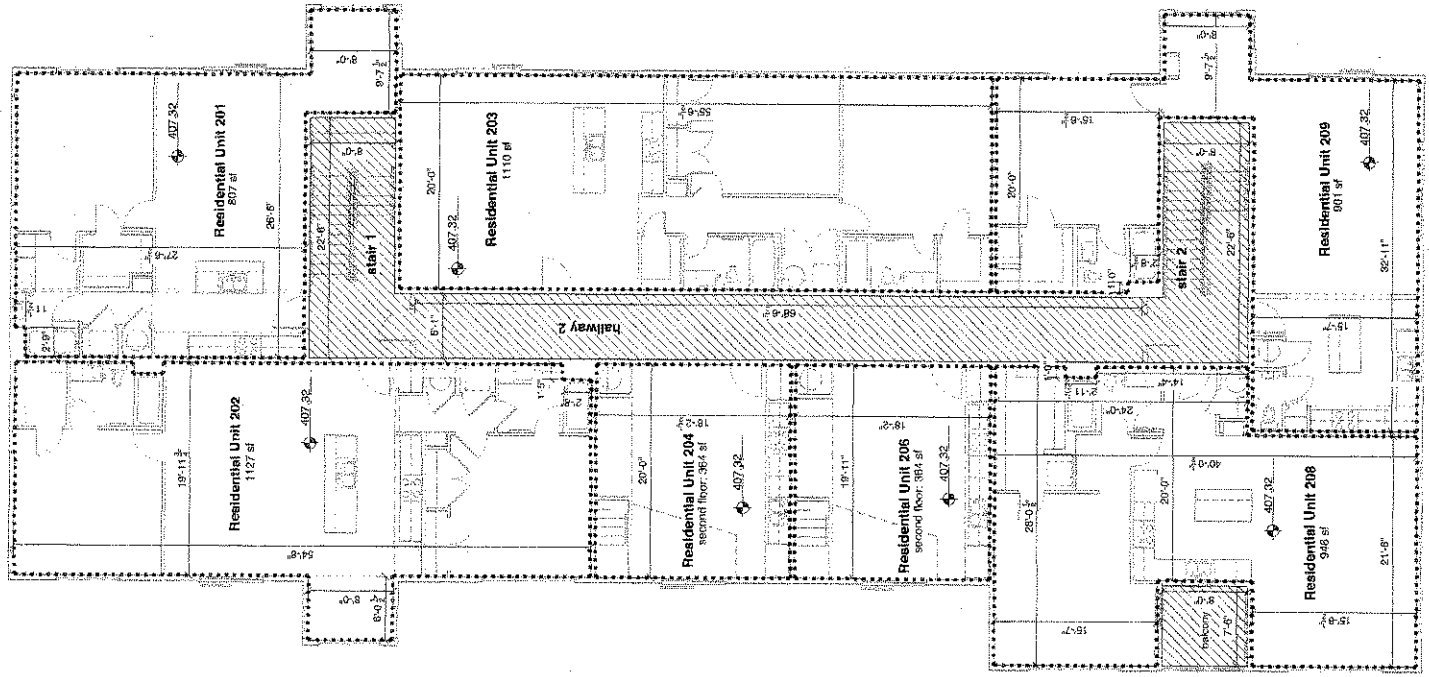
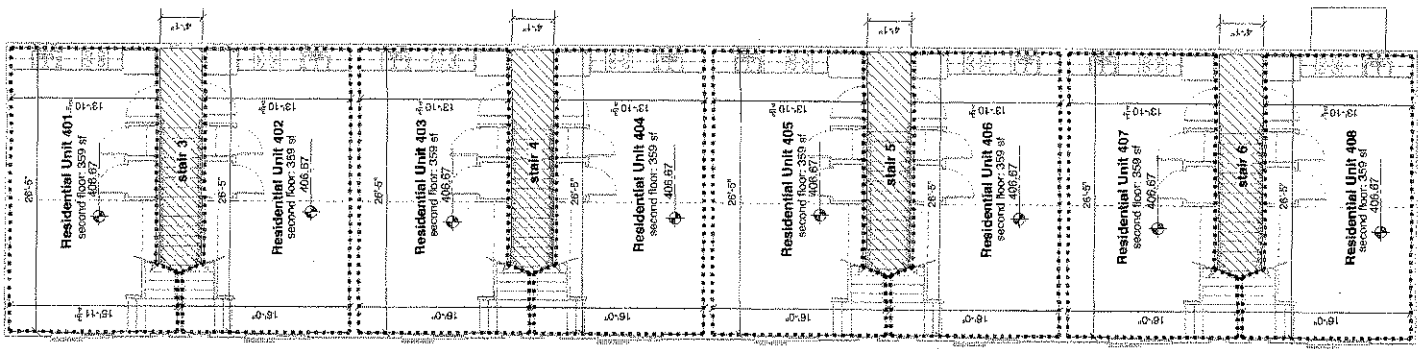
*Scott Harmon*  
 6/3/09



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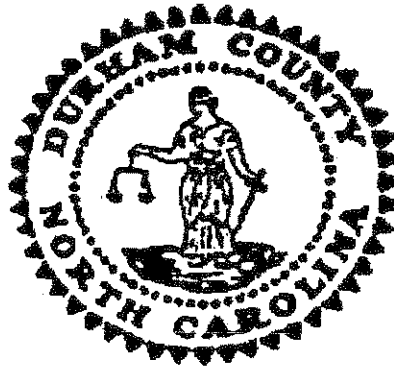
# Mangum 506 Condominiums

506 n. mangum st., durham, nc



Limited Common Element

**second floor plan**  
 scale: 1/8" = 1'-0"



WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
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200 E. MAIN STREET  
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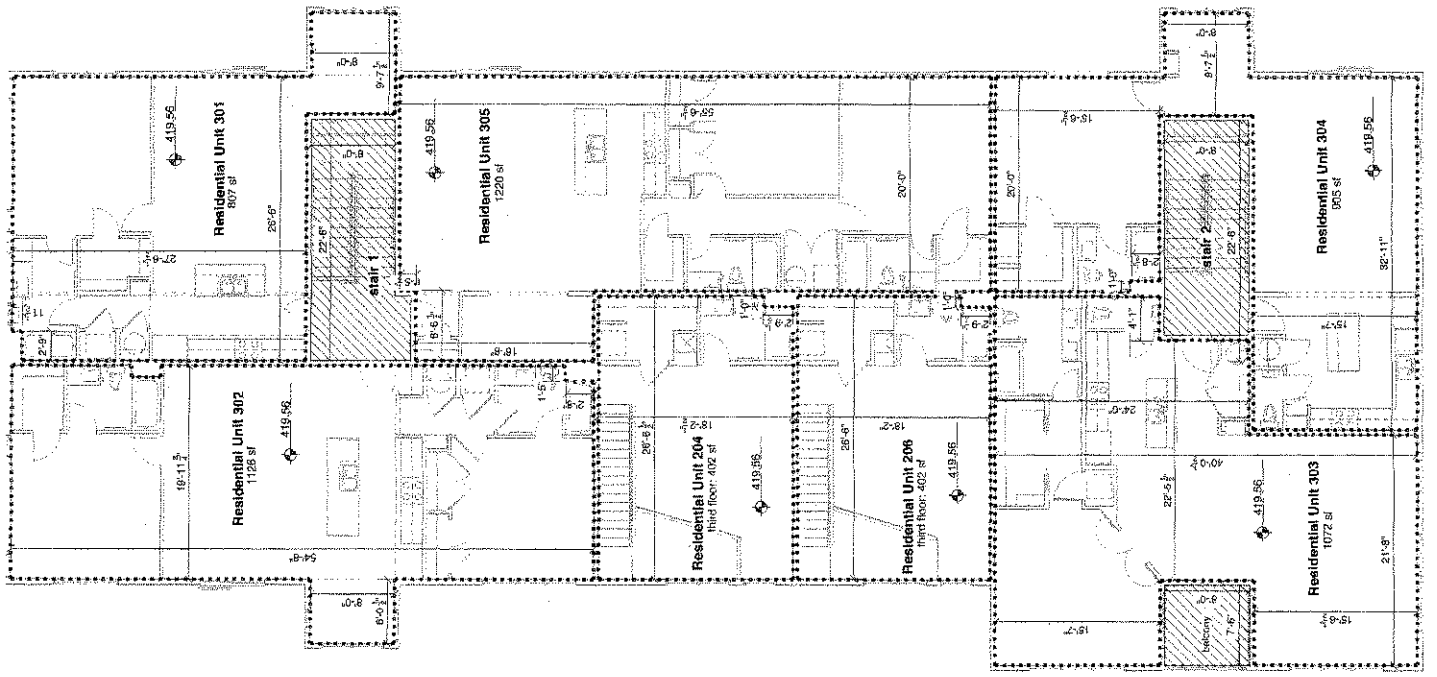
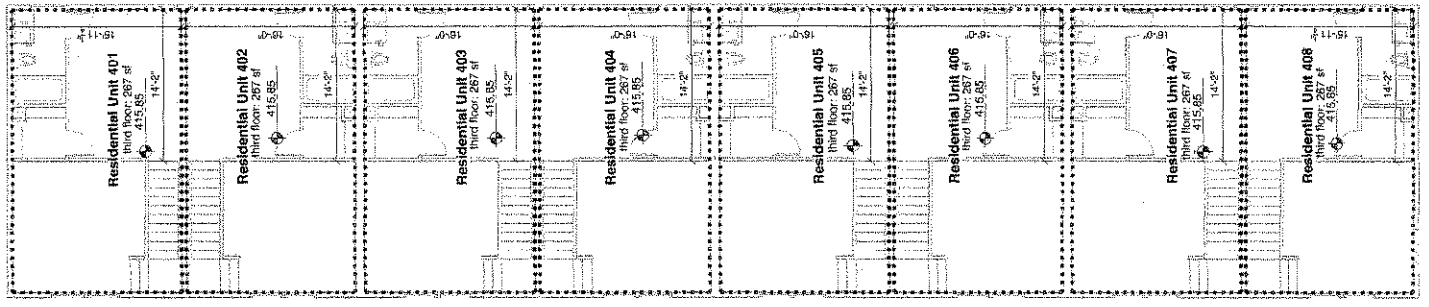
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 JERALD SCOTT HARMON  
 REGISTERED PROFESSIONAL ARCHITECT  
 DURHAM, NC 27701, NC

I, Jerald Scott Harmon, an Architect licensed under the provisions of Chapter 63A of the North Carolina General Statutes, do hereby certify that these Plans contain all of the information required by Chapter 63A-109 of the North Carolina General Statutes. Such Plans shall include the location, location, location, ceiling and floor elevations, unit numbers and dimensions of Mangum 506 Condominiums, as built. All structural components and mechanical systems of all buildings containing or comprising any units are substantially completed in accordance with the Plans.

*J. Harmon*  
 6-3-07



**Mangum 506  
 Condominiums**  
 506 n. mangum st., durham, nc



third floor plan  
 scale: 1/8" = 1'-0"



WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
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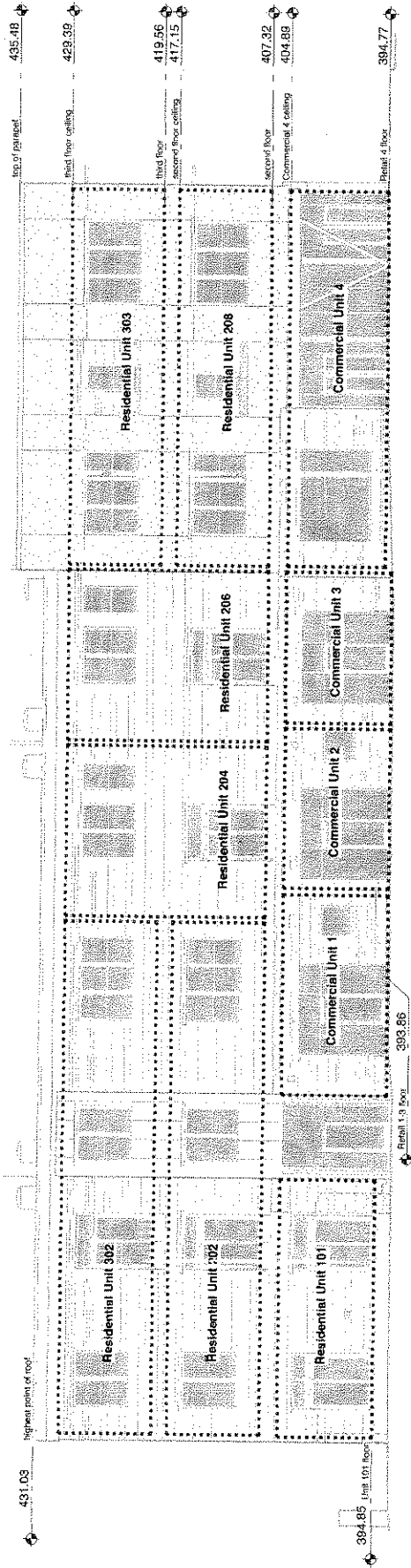
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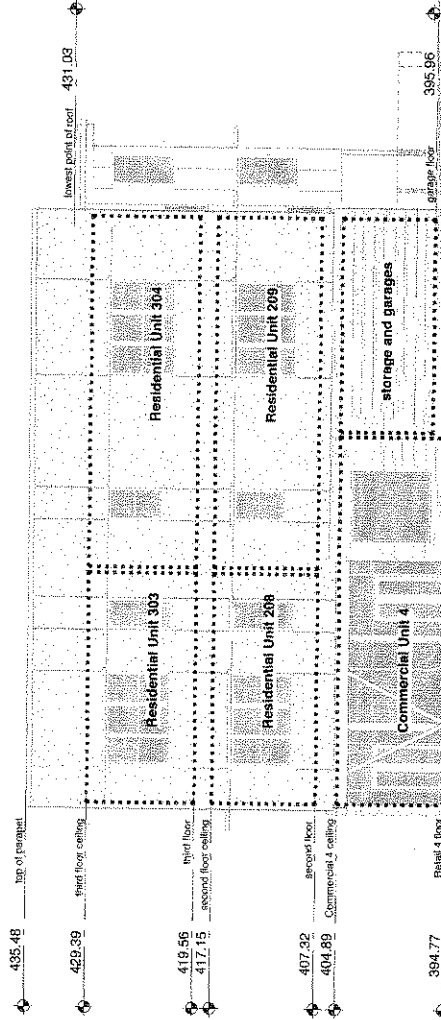
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Front Building west elevation

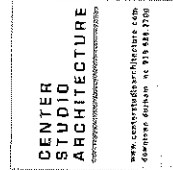


Front Building south elevation

The unit ceiling elevations provided on this plan are to the finished surface of gypsum wall board because of the limitations of the field survey of the finished buildings; however, the upper unit boundaries of the units are the lower surfaces of the ceiling framing as are particularly described in the Declaration of Mangum 506 Condominium.

I, Jerald Scott Harmon, an Architect licensed under the provisions of Chapter 83A of the North Carolina General Statutes, do hereby certify that these Plans contain all of the information required by Chapter 47C-2.09 of the North Carolina General Statutes. Such Plans fully and accurately depict the layout, location, ceiling and floor elevations, Unit numbers and dimensions of Mangum 506 Condominiums, as built. All electrical, plumbing and mechanical systems of all buildings containing such elevations are substantially completed in accordance with the Plans.

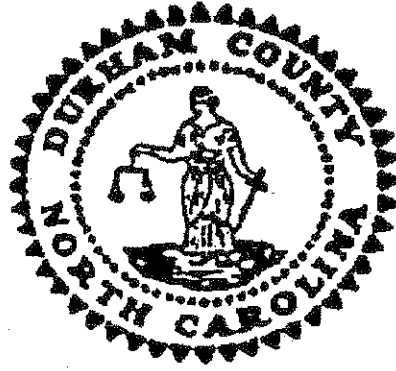
*J. Scott Harmon* 6/3/09



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 PHONE: 919.487.1770

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 REGISTERED PLUMBER  
 RECORDS DEPARTMENT

**Mangum 506  
 Condominiums**  
 506 n. mangum st., durham, nc



WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
DURHAM COUNTY COURTHOUSE  
200 E. MAIN STREET  
DURHAM, NC 27701

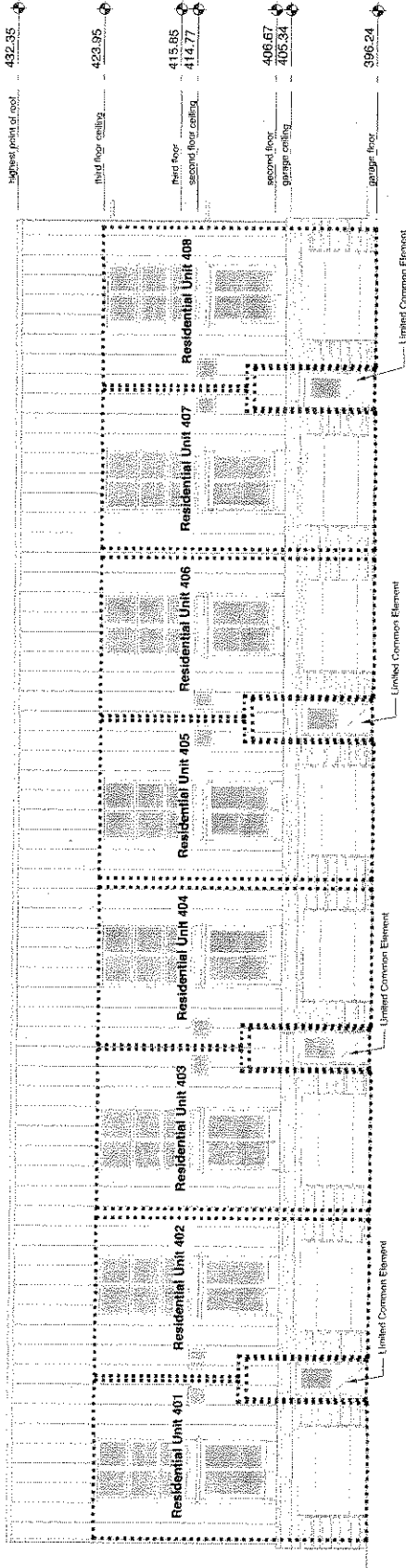
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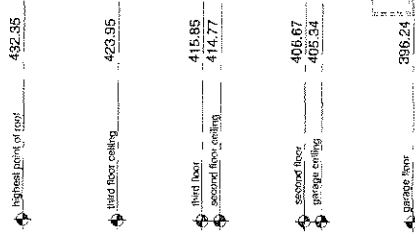
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2009024412



Back Building west elevation



Back Building south elevation

The unit ceiling elevations provided on this plan are to the finished surface of gypsum wall board because of the limitations of the field survey of the finished buildings; however, the upper unit boundaries of the units are the lower surfaces of the ceiling framing as more particularly described in the Declaration of Mangum 506 Condominium.

I, Jerold Scott Harmon, an Architect licensed under the provisions of Chapter 83A of the North Carolina General Statutes, do hereby certify that these Plans contain all of the information required by Chapter 47C-2-109 of the North Carolina General Statutes. Such Plans fully and accurately depict the layout, location, ceiling and floor elevations, Unit numbers and dimensions of Mangum 506 Condominiums, as built. All structural components and mechanical systems of all units are shown or comprising any units are substantially completed in accordance with the Plans.

*Signature*  
6/3/09



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**Mangum 506 Condominiums**  
506 n. mangum st., durham, nc



WILLIE L. COVINGTON  
REGISTER OF DEEDS, DURHAM COUNTY  
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2009024413

**ATTACHMENT B**  
**TO**  
**PUBLIC OFFERING STATEMENT**

**Articles of Incorporation for Association**

**The file stamped copy of the Articles of Incorporation for Mangum 506 Condominium Association follow this page.**

**ARTICLES OF INCORPORATION  
OF  
MANGUM 506 CONDOMINIUM ASSOCIATION**

**A Nonprofit Corporation**

**PREAMBLE:**

M506, LLC, hereinafter referred to as "Declarant", owns or will own certain property in Durham County, North Carolina. Declarant intends to record a Declaration of Mangum 506 Condominium (the "Declaration") which will encumber the property. This Association is being formed to administer the Declaration and, among other things, to perform the duties and exercise the powers of the Association pursuant to the Declaration, as and when the Declaration is recorded in the office of the Durham County Register of Deeds, North Carolina. Until such time as the Declaration is so recorded, the incorporator shall be the sole member of the Association.

The undersigned hereby submits these Articles of Incorporation for the purpose of forming a nonprofit corporation under the laws of the State of North Carolina.

**ARTICLE I**

The name of the corporation is: Mangum 506 Condominium Association.

**ARTICLE II**

The street and mailing address of the initial registered office of Mangum 506 Condominium Association (the "Association") in the State of North Carolina is: 339 West Main Street, Suite A, Durham, Durham County, North Carolina 27701. The Association's initial registered agent at such address is: Scott Harmon.

**ARTICLE III**

The name and address of the incorporator are: William A. Anderson, III; Kennon, Craver, Belo, Craig & McKee, PLLC; 4011 University Drive, Suite 300; Durham, NC 27707.

**ARTICLE IV**

The Association will have members, the designations, qualifications, rights and obligations of whom are set forth in or authorized by the Bylaws of the Association. The members of the Association shall be limited solely to the Owners of Units in the Condominium. Membership shall be automatically established by acquisition of fee title to a Unit whether by conveyance, devise, descent, judicial decree, foreclosure or deed in lieu of foreclosure. A new Owner designated in such deed or other instrument shall thereupon become a member of the Association, and the membership of the prior owner

as to a designated Unit shall be terminated. Each new Owner shall deliver to the Association a true copy of such deed or instrument of acquisition of title. The Association may be dissolved by a vote or agreement of Owners representing at least eighty percent (80%) of the total votes in the Association, as evidenced by execution of a termination agreement, or ratification thereof, by such Owners, provided that all the mortgagees of the Units (including those mortgagees of Unit Owners who did not consent) are provided with thirty (30) days prior written notice of such termination; and provided further such termination is subject to the approval of Eligible Holders as more specifically set forth in the Declaration. Upon dissolution of the Association, the assets thereof, both real and personal, shall, after all liabilities and obligations of the Association have been paid, or adequate provision made therefor, in the manner set forth in the Declaration, be dedicated to a public body, or conveyed to a nonprofit corporation or organization with purposes similar to those set forth hereinabove. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to those to which they were required to be devoted by the Association.

Neither one's membership in the Association nor a member's share in the funds and assets of the Association may be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.

#### ARTICLE V

The purposes and powers for which the Association is organized are as follows:

- a. To operate and manage a condominium known as Mangum 506 Condominium organized pursuant to Chapter 47C of the North Carolina General Statutes and located in Durham, Durham County, North Carolina;
- b. To undertake the performance of, and carry out the acts and duties incident to the administration of the operation and management of the Association in accordance with the terms, provisions, conditions and authorizations contained in both these Articles and in the Declaration;
- c. To make, establish and enforce reasonable rules and regulations governing the use of the Common Elements, land, and other real and personal property which may be owned by the Association;
- d. To make, levy and collect assessments against Unit Owners; to provide the funds to pay for Common Expenses of the Association as provided in the Declaration and to use and expend the proceeds of assessments in the exercise of the powers and duties of the Association; to use said assessments to promote the acquisition, improvement and maintenance of the Common Elements, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements, including, but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment,

materials, management, supervision thereof, the maintenance of insurance in accordance with the Bylaws, including the employment of attorneys to represent the Association when necessary for such other needs as may arise;

e. To maintain, repair, replace, and operate the properties for which the Association is responsible;

f. To enforce by any legal means, the provisions of the Declaration, the Bylaws and the rules and regulations for the Condominium;

g. To delegate to such manager or managers powers and duties of the Association except those powers and duties which are specifically required to have approval of the Association's Executive Board or the membership of the Association; and

h. To have all of the common law and statutory powers of a nonprofit corporation and also those powers as set out in the Declaration and the North Carolina Condominium Act and all powers reasonably necessary to implement the purposes of the Association.

#### ARTICLE VI

Upon dissolution of the Association, the assets thereof, both real and personal, shall, after all liabilities and obligations of the Association have been paid, or adequate provision made therefor, in the manner set forth in the Declaration, be dedicated to a public body, or conveyed to a nonprofit corporation or organization with purposes similar to those set forth hereinabove. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization, to be devoted to purposes as nearly as practicable to those to which they were required to be devoted by the Association.

No part of the net earnings or assets of the Association shall inure to the benefit of or be distributed, upon dissolution or otherwise, to any member of the Association, director, officers or other private person. The Association may enter into contracts with the Declarant or with any other person (including any member, officer, or director), and may pay compensation in reasonable amounts for services rendered.

Notwithstanding anything herein contained to the contrary, these Articles of Incorporation, their enforcement and interpretation shall be subject to the City and County of Durham, North Carolina, ordinances and regulations and the General Statutes of the State of North Carolina.

#### ARTICLE VII

The street and mailing address and county of the principal office of the Association is: 339 West Main Street, Suite A, Durham, Durham County, North Carolina 27701.

#### ARTICLE VIII

The Association shall have an Executive Board whose number and manner of election shall be fixed by the Bylaws; provided, however, the number of members of the Executive Board shall not be less than three (3). All corporate powers of the Association shall be exercised by or under the authority of, and the affairs of the Association managed under the direction of its Executive Board. Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units in the Condominium (including units which may later be created pursuant to Special Declarant Rights) to Unit Owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the Units (including Units which may be created pursuant to Special Declarant Rights) to Unit Owners other than Declarant, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant. Not later than the termination of the Period of Declarant Control (as defined in the Declaration), the Unit Owners shall elect a Executive Board of at least three (3) members, a majority of whom must be Unit Owners. Thereafter, the election of members of the Executive Board shall take place at the annual meeting of the members as provided in the Bylaws.

#### ARTICLE IX

The Association shall have all the powers granted nonprofit corporations under the laws of the State of North Carolina. Notwithstanding any other provision of these Articles, the Association may elect tax status under Section 528 of the Internal Revenue Code of 1986. The Association shall not carry on any activities prohibited by a corporation electing tax status under Section 528, or any corresponding sections or provisions of the Internal Revenue Code. It is further provided that no distributions of income of the Association are to be made to members, directors or officers of the Association; provided, however, that members of the Association may receive a rebate of any excess dues and assessments previously paid.

#### ARTICLE X

No director of the Association shall be personally liable for monetary damages for breach of any duty as a director arising out of an action whether by or in the right of the Association or otherwise, except with respect to (i) acts or omissions that the director at the time of such breach knew or believed were clearly in conflict with the best interests of the Association; (ii) any liability under N.C.G.S. 55A-8-32 or N.C.G.S. 55A-8-33; (iii) any transaction from which the director derived an improper personal benefit; or (iv) acts or omissions occurring prior to the date on which this provision became effective. As used herein, the term "improper personal benefit" does not include a director's reasonable compensation or other incidental benefit for or on account of his service as a director, officer, employee, independent contractor, attorney, or consultant of the Association. No

amendment or repeal of this Article, nor the adoption of any other amendment to these Articles of Incorporation inconsistent with this Article, shall eliminate or reduce the protection granted herein with respect to any matter that occurred prior to such amendment, repeal, or adoption. The provisions of this Article shall not be deemed to limit or preclude indemnification of a director by the Association.

#### ARTICLE XI

The number of Directors constituting the initial Executive Board shall be three (3). The initial directors' names and address are:

Scott Harmon	339 West Main Street, Suite A, Durham, NC 27701
Andrew Philipps	122 West Clay Street, Mebane, NC 27302
Susana Dancy	339 West Main Street, Suite A, Durham, NC 27701

#### ARTICLE XII

To the extent provided by law, the Association may participate in mergers and consolidations with other condominium associations organized for the same or similar purpose, provided, however, that any such merger or consolidation shall require approval by the affirmative vote of at least that percentage of votes held by members which is necessary to terminate the Condominium. Such vote shall take place at a meeting of the members duly called for such purpose. Notwithstanding the foregoing, Declarant shall have the right, but not the obligation, until such time as Declarant no longer elects a majority of the Executive Board of the Association, to merge or consolidate this Association with any other property owners association.

#### ARTICLE XIII

Amendment to these Articles of Incorporation shall be made upon the affirmative vote of members to whom at least seventy-five percent (75%) of the votes in the Association are allocated. Any such vote shall take place at a meeting of the members duly called for that particular purpose. The approval of Eligible Holders shall be required in certain instances as more specifically set forth in the Bylaws. Furthermore, for so long as Declarant remains the Owner of one or more Units in the Condominium or during that period which is prior to the expiration of the Special Declarant Rights, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, Declarant, including Special Declarant Rights, unless Declarant joins in the creation and execution of the Amendment. In addition to the foregoing, so long as Declarant has the right to appoint the majority of the members of the Executive Board of the Association, Declarant shall be entitled to unilaterally amend these Articles of Incorporation and the Bylaws.

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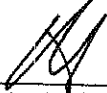
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**ARTICLE XIV**

Unless specifically defined herein, capitalized terms shall have the meanings ascribed to them in the Declaration.

These articles will be effective upon filing.

This the 30<sup>th</sup> day of June, 2009.



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William A. Anderson, III, Incorporator

**ATTACHMENT C**  
**TO**  
**PUBLIC OFFERING STATEMENT**

**Proposed Bylaws of Association**

**BYLAWS**

**of**

**MANGUM 506 CONDOMINIUM ASSOCIATION**

**ARTICLE I**  
**PLAN OF UNIT OWNERSHIP**

1. **CONDOMINIUM.** The Property (the term "Property" as used herein means and includes the land, the buildings, all improvements and structures thereon) located in the City of Durham, Durham County, North Carolina, known as the MANGUM 506 CONDOMINIUM as has been, or will be, by Declaration, submitted to the provisions of the North Carolina Condominium Act (the "Act"), which Property shall henceforth be known as MANGUM 506 CONDOMINIUM (hereinafter referred to as the "Condominium").

2. **ASSOCIATION.** In conjunction with the creation of the above described Condominium, there also has been incorporated under the laws of the State of North Carolina an association known as Mangum 506 Condominium Association (the "Association") which shall, pursuant to the provision of the aforementioned Declaration, constitute the incorporated condominium owners' association.

3. **PERSONAL APPLICATION.** All Owners, Co-owners, and their respective household members, tenants, and invitees and the employees and invitees of such tenants, and any other person who might use the facilities of the Property in any manner, are subject to the regulations set forth in these Bylaws and in the Declaration establishing the Condominium as they may be amended from time to time. The mere acquisition or use of any of the Condominium Units or any facilities on the Property is an act deemed to serve as acceptance and ratification of the Articles, these Bylaws, and the Declaration, all as may be amended.

4. **DEFINITIONS.** Capitalized terms used in these Bylaws shall have the same meanings given them in the Declaration of Mangum 506 Condominium unless otherwise expressly set forth herein.

**ARTICLE II**  
**VOTING: QUORUM: PROXIES**

1. **ELIGIBILITY.** Any person who acquires title to a Unit in the Condominium shall be a member of the Association. There shall be one membership for each Unit owned. Transfer of Unit ownership, either voluntarily or by operation of law, shall terminate membership in the Association, and said membership is to become vested in the transferee. If Unit ownership is vested in more than one person, then all of the persons so owning such Unit shall agree upon the designation of one of the Co-owners of such Unit to act as a member of the Association. If Unit ownership is vested in a corporation, limited liability company, partnership, trust, unincorporated association or other entity, said corporation, limited liability company, partnership, trust, unincorporated entity or other entity must designate an individual officer, manager, partner or employee of the same to act as a member of the Association on behalf of such entity. Such designation shall be delivered in writing to the Secretary of the Association.

2. **VOTING.** Subject to the power of the Association to suspend the voting rights of Owners, each Owner shall be entitled to vote in the Association in accordance with the vote allocated to such Owner's Unit by the Declaration.

3. **REQUIRED VOTE.** As used in these Bylaws, the term "Required Vote" shall mean the votes of those Unit Owners holding more than sixty seven (67%) percent of the votes present at any duly called meeting at which a quorum is present, in accordance with the vote allocation to Units set forth in the Declaration, and any authorized amendments thereto.

4. **QUORUM.** Except as otherwise provided in these Bylaws, the presence in person or by proxy or by ballot (when authorized as provided in Section 6 of this Article II) of fifty percent (50%) of the votes in the Association shall constitute a quorum. This quorum requirement shall not decrease for any reason.

5. **PROXIES.** Votes may be cast in person or by proxy or, when authorized by the Executive Board, by ballot. Proxies must be filed with the Secretary before the appointed time of each meeting.

6. **BALLOTS.** Voting by ballot is permissible when authorized by the Executive Board. When the Executive Board has authorized voting by ballot, there shall be sent to every member with the notice of the meeting, a statement describing the matters to be introduced for vote of the members and a ballot on which each member may vote for or against approval of such matter. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 4 of this Article II. Provided, however, such ballots shall not be counted in determining whether a quorum is present to vote upon matters not appearing on the ballot. All ballots must contain the time by which a ballot must be received by the Association in order to be counted.

7. **VOTE.** The vote of the Required Vote at a duly called meeting at which a quorum is present (or by proxy, or by ballot when authorized) shall be the act of, and binding

upon, all Unit Owners, except where in the Declaration, the Articles, or in these Bylaws, or by law, a higher percentage vote is required.

### ARTICLE III MEMBERS; MEETINGS

1. ASSOCIATION RESPONSIBILITIES. The Unit Owners will constitute the members of the Association who will have, among other duties, the responsibility of electing the Executive Board. Except as otherwise provided, decisions and resolutions of the Association shall require approval as provided in Section 7 of Article II.

2. PLACE OF MEETINGS. Meetings of the Association shall be at such place, convenient to the Unit Owners, as may be designated by the Executive Board.

3. ANNUAL MEETINGS. There shall be one regular annual meeting of the Association. The annual meeting of the Association shall be held at the call of the President during the month of January or at such other time as a Unit Owners having the Required Vote may agree upon. At such meeting, there shall be elected an Executive Board in accordance with the requirements of Section 3 of Article IV of these Bylaws. All meetings of the Association (annual and special meetings) shall be conducted in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*.

4. SPECIAL MEETINGS. It shall be the duty of the Secretary to call a special meeting of the Unit Owners as directed by the President, or by resolution of the majority of the Executive Board, or upon a petition signed by Unit Owners representing twenty percent (20%) of the total votes in the Association having been presented to the Secretary. A notice of any special meeting shall state the time and place of such meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a director or office. No business shall be transacted at a special meeting except as stated in the notice.

5. NOTICE OF MEETINGS. It shall be the duty of the Secretary to provide notice of each annual or special meeting to each Unit Owner of record, stating (i) the time and place where the meeting is to be held, (ii) the items on the agenda, (iii) the general nature of any proposed amendment to the Declaration or these Bylaws, (iv) any budget changes, and (v) any proposal to remove a director or officer. Notice shall be made by hand delivery or sent first class, registered or certified mail, or by electronic mail to an electronic mail address provided to the Association in writing by the Unit Owner. Notice shall be delivered at least ten (10) days, but not more than fifty (50) days, prior to such meeting.

6. ADJOURNED MEETING. If any meeting of the Association cannot be organized because a quorum has not attended, the Unit Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than twenty-four (24) hours nor more than thirty (30) calendar days from the time the original meeting was called. The quorum requirement at any rescheduled meeting shall not decrease.

7. ORDER OF BUSINESS. The order of business at all annual meetings of the Association shall be as follows:

- a. Call to Order;
- b. Proof of Notice of Meeting or Waiver of Notice;
- c. Reading of Minutes of Preceding Meeting;
- d. Reports of Officers;
- e. Reports of Committees;
- f. Election of Executive Board Members;
- g. Budget Review;
- h. Unfinished Business; and
- i. New Business.

The order of business at a special meeting of the Association shall routinely include items (a) through (d) above, and thereafter, the agenda shall consist of those items (e) through (i) specified in the notice of meeting, if any.

#### **ARTICLE IV** **EXECUTIVE BOARD**

1. NUMBER AND QUALIFICATIONS. The affairs of the Association shall be governed by an Executive Board (sometimes referred to as the "Board") comprised of no fewer than three (3) persons and no more than nine (9) persons as determined by the Declarant during the Period of Declarant Control (as defined in the Declaration); provided, however, the number of initial members of the Board shall be as set forth in the Articles of Incorporation of the Association. During the Period of Declarant Control, the Declarant shall be entitled to appoint and remove officers and Executive Board members as set forth in Section 2.7 of the Declaration. After the termination of the Period of Declarant Control, the number of members of the Board shall be determined by the Unit Owners but in any event shall not be fewer than three (3) nor more than nine (9) persons, a majority of whom shall be Unit Owners.

2. GENERAL POWERS AND DUTIES. The Board shall have the powers and duties necessary for the administration of the affairs of the Association, including all the powers set forth under N.C.G.S. § 47C-3-102 and the other powers granted to it by the Act and the Declaration, and, subject to applicable law, the Act, these Bylaws and the Declaration, may do all such acts and things not directed to be executed and done by the Unit Owners, the Declarant or another person. Without limiting the generality of the foregoing, the Board shall have the following powers and shall cause the Association to perform the following duties:

- a. Maintain compliance with all of the terms and conditions of the Declaration and any amendments thereto and enforcement of same;
- b. To care for, upkeep and maintain the Property;

c. Collection, at the time of the closing of the initial sale from Declarant of each Unit, three (3) months' estimated common expense assessments for the purpose of establishing a working capital fund for the Association;

d. Preparation of the annual budget. Within thirty (30) days after the adoption of any proposed budget, the Executive Board shall provide a summary of the budget to all Unit Owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) or less than thirty (30) days after mailing of the summary. There shall be no requirement that a quorum be present at the meeting for the purpose of ratifying the budget. The budget shall be ratified at that meeting unless Unit Owners holding a majority of the total votes present at such meeting reject the budget. If the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Unit Owners ratify a budget proposed by the Executive Board;

e. As a part of the annual budget described in (d) above, there shall be established and maintained on behalf of the Association an adequate reserve fund for periodic maintenance, repair and replacement of improvements to the Common Elements (as defined in the Declaration). Any interest earned on said reserve fund shall remain a part of said reserve fund and shall not be used for general operating expenses. For purposes of this Section, "adequate reserve fund" shall mean a reserve funded by contributions which are not less than twenty percent (20%) of the total Association budget for any year (including the reserve).

f. Contracting for the employment, dismissal and control of the personnel necessary for the maintenance and operation of the Common Elements;

g. Performing repairs caused by any natural disaster or man-made damage from funds held in the reserve account and any special assessment, or causing the same to be done;

i. Obtaining of insurance for the Property, pursuant to the provisions hereof and the provisions of the Declaration, or causing the same to be done as set forth in Article VII hereof;

j. Grant or relocate easements which are not inconsistent with the owners' full use and enjoyment of the Common Elements or the Special Declarant Rights reserved in the Declaration;

k. Make rules and regulations, and allocations, not inconsistent with these Bylaws, as amended, the Declaration, as amended, or law, with respect to the use and enjoyment of the Condominium;

l. Making of repairs, additions and improvements to or alterations of, the Property in accordance with the other provisions of these Bylaws that are not inconsistent with the Special Declarant Rights reserved in the Declaration;

m. To make available, for inspection, upon request during normal working hours or under other reasonable circumstances, to Unit Owners, the holders, insurers or guarantors of any first mortgage on any Unit, current copies of the Declaration, Bylaws, other Rules and Regulations pertaining to the Association, and financial statements of the Association;

n. To establish such advisory committees as the Board may deem appropriate to assist in carrying out the duties of the Board;

o. To further improve the Property, both real and personal, and to purchase real estate and personal property including items of furniture, furnishings, fixtures and equipment for the Property;

p. If it appears that through a drafter's error in the Declaration that the Common Elements, or Common Expenses have been stated or distributed improperly, to approve an amendment to the Declaration correcting that error. No Owners, except those directly affected, must join in the execution of the amendment;

q. To pay taxes or assessments, if any, against the Common Elements or Property as required;

r. To pay costs of utility services rendered to the Property, as required;

s. Upon the decision of the Executive Board, to engage a management company to act as agent for the Association to perform any or all of the duties of the Board and exercise any of the powers of the Board as directed by, and under the supervision of, the Board;

t. To publish the names and addresses of all Executive Board members and officers within 30 days of the election; and

u. To perform the other functions required of the Association by the Act, the Declaration or these Bylaws.

### 3. ELECTION OF EXECUTIVE BOARD MEMBERS.

a. Initial Board Appointed by Declarant. The initial Executive Board shall have three members as designated in the Articles of Incorporation of the Association and subsequently by the Declarant. These appointments will be temporary and will continue only in accordance with the requirements of the Act relating to the Period of Declarant Control, which terminates no later than the earlier of: (i) one hundred and twenty (120) days after conveyance of seventy five percent (75%) of the Units (including Units which may be created pursuant to Special Declarant Rights); (ii) two years after Declarant has ceased to offer Units for the sale in the ordinary course of business; or (iii) two years after any development right to add new Units, if any, was last exercised. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board before termination of the Period of Declarant Control, but in that event, Declarant may require, for the duration of the Period of Declarant Control, that

specified actions of the Association or Board, as described in recorded instruments executed by the Declarant, be approved by the Declarant before they become effective.

b. Transition Board. Not later than sixty (60) days after conveyance of thirty three percent (33%) of the Units to Unit Owners other than Declarant, the Unit Owners shall hold a special meeting to elect two members of the Executive Board which will be added to the Board in addition to the three members appointed by Declarant's. This transition Board will then have five members.

c. Full Board Elected by Unit Owners. Within sixty (60) days prior to the expiration of the Period of Declarant Control, the Unit Owners shall hold a special meeting to elect Board members to the first Executive Board fully elected by the Unit Owners as follows:

- (i) one Board members shall be elected having a one year term;
- (ii) two Board members shall be elected having two year terms; and
- (iii) two Board members shall be elected having three year terms.

The Board members elected according to this procedure shall serve until the regular annual meeting in the year in which their terms expire. At each regular annual meeting after the special meeting when the full Board is elected by the Unit Owners, the Unit Owners shall hold elections for any Board seat opening as a result of the expiration of a Board member's term, and all terms shall be three years. This method is intended to provide staggered elections for members of the Executive Board. The majority of the Board members elected by the Unit Owners must be Unit Owners.

4. VACANCIES. Vacancies in the Board caused by reason other than the removal of a member of the Board by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board (or, during the Period of Declarant Control, by appointment of Declarant) even though they may constitute less than a quorum; and, each person so elected shall be a member of the Board until a successor is elected and qualified at the next meeting of the Association.

5. REMOVAL OF MEMBERS OF THE BOARD. Once the Period of Declarant Control has terminated, at any annual or special meeting of the Association duly called, any one or more of the members of the Board may be removed with or without cause by the Unit Owners having the Required Vote, and a successor may then and thereby be elected by the Required Vote to fill the vacancy thus created. Any member of the Board whose removal has been proposed to the Association shall be given an opportunity to be heard at the meeting. No Board member who was a Unit Owner or representative of a Unit Owner at the beginning of his or her tenure shall continue to serve on the Board if during the term of office, he or she or his or her principal or employer shall cease to be a Unit Owner (except as provided above regarding Declarant's appointees).

6. ORGANIZATIONAL MEETING. The first meeting of a newly elected Board shall be held within ten (10) days of election at a place named by the Board, and no notice shall

be necessary to the newly elected Board members in order to constitute such a meeting, provided that a majority of the Board shall be present.

7. REGULAR MEETINGS. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Board, but at least one (1) such meeting shall be held each fiscal year. Notice of regular meetings of the Board shall be given by the Secretary or other person designated by the Board, to each Board member, personally or by mail, telephone, or electronic mail, at least ten (10) days prior to the day named for such meeting. At regular intervals the Executive Board shall provide the opportunity to the Unit Owners attend a portion of the meeting of the Executive Board for the purpose of voicing their issues and concerns to the Executive Board. The Executive Board may place reasonable restrictions on the number of Unit Owners who speak on each side of any issue and on the time that Unit Owners may speak. All meetings of the Executive Board (regular and special) shall be conducted in accordance with the most recent edition of *Robert's Rules of Order Newly Revised*.

8. SPECIAL MEETINGS. Special meetings of the Board may be called by the President on three (3) days notice to each Board Member, given personally or by mail, telephone, or electronic mail, which notice shall state the time, place (as hereinabove provided), and the purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Board members.

9. WAIVER OF NOTICE. Before or at any meeting of the Board, any member of the Board may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board member at any meeting of the Board shall be a waiver of notice by him or her of the time, place and purpose thereof unless the member at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

10. BOARD QUORUM; ACTION. At all meetings of the Board, a majority of the Board members then in office immediately before a meeting begins shall constitute a quorum for the transaction of business, and acts of the majority of the Board members present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there is less than a quorum present, the majority of the Board members present may adjourn the meeting from time to time. At any such adjourned meeting which is reactivated with a quorum, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

11. FIDELITY BONDS. The Board shall require that any and all Board members, officers, employees of the Association and all other persons handling or responsible for Association funds shall furnish adequate blanket fidelity bonds. If a management agent has the responsibility for handling or administering funds of the Association, the Association shall cause the management agent to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as

the case may be, at any given time during the term of each bond. Notwithstanding the foregoing, in no event, shall the aggregate amount of such bonds be less than a sum equal to three (3) months aggregate assessments on all Units plus reserve funds. All bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The premiums on bonds required herein, except those maintained by the management agent, shall be paid by the Association as a Common Expense. Each bond shall provide that it may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association or Insurance Trustee (as hereinafter defined). Each bond must also provide that the servicer(s) for FNMA, on behalf of FNMA, also receive such notice of cancellation or modification.

12. COMPENSATION. No member of the Board shall receive any compensation from the Association for acting as a Board member.

13. LIABILITY OF THE EXECUTIVE BOARD. It is intended that the members of the Board shall have no personal liability with respect to any contract made by them on behalf of the Association. It is understood and permissible for the original Board, who are members of or employed by Declarant, to contract with Declarant and affiliated entities without fear of being charged with self-dealing.

14. INDEMNIFICATION. To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable time, each Executive Board member is hereby indemnified by the Association with respect to any liability and expense of litigation arising out of his activities as Board member. Such indemnity shall be subject to approval by the members of the Association only when such approval is required by the North Carolina Nonprofit Corporation Act.

## **ARTICLE V** **OFFICERS**

1. DESIGNATION. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer all of whom shall be elected by the Board. The Board may appoint an Assistant Treasurer and Assistant Secretary, and such other officers as, in their judgment, may be necessary. Officers appointed by the Declarant need not be Board members or members of the Association but officers elected by the Board members after the Period of Declarant Control must be members of the Association and Board members.

2. ELECTION OF OFFICERS. Until the Period of Declarant Control has ended, Declarant may appoint officers. Thereafter, the officers of the Association shall be elected annually by the Board at the organizational meeting of each new Board, and the officers shall hold office at the pleasure of the Board.

3. REMOVAL OF OFFICERS. Until the Period of Declarant Control has ended, Declarant may remove officers. Thereafter, upon an affirmative vote of a majority of the members of the Board, any officer may be removed either with or without cause, and his or her

successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

4. PRESIDENT. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are usually vested in the office of president of a condominium or incorporated Association, including but not limited to the power to appoint committees from among the Owners from time to time as he may, in his discretion, feel appropriate to assist in the conduct of the affairs of the Association.

5. VICE PRESIDENT. The Vice President shall take the place of the President and perform his duties when the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board.

6. SECRETARY. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association, and the Secretary shall have charge of all books, records and papers of the Association.

7. TREASURER. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board. He shall, in general, perform all the duties customary and incident to the office of the Treasurer.

## **ARTICLE VI**

### **OBLIGATIONS OF THE UNIT OWNERS**

1. PERIODIC ASSESSMENTS FOR COMMON EXPENSES. The Association shall have the power to levy, and all Unit Owners shall be obligated to pay, periodic assessments imposed by the Association to meet all Association Common Expenses. Payment of the periodic assessments shall be in equal monthly installments on or before the first day of each month, or in such other reasonable manner as the Board shall designate so long as periodic assessments are levied and paid at least annually.

In addition to the periodic payments for assessments as described above, at the time of the initial closing of the sale of each Unit the buyer shall pay a working capital assessment for the purpose of establishing an operating reserve for the Association. The amount of this working capital assessment shall be equal to three (3) months' Common Expense assessment.

2. ASSESSMENTS TO REMAIN IN EFFECT UNTIL NEW ASSESSMENTS MADE. The omission by the Board before the expiration of any year, to fix the assessments for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of the Declaration and Bylaws or a release of any Unit Owner from the obligation to

pay the assessments, or an installment thereof for that or any subsequent year, and the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Unit Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his or its Unit.

3. SPECIAL ASSESSMENTS. All Unit Owners shall be obligated to pay special assessments imposed by the Association to meet the costs of, among other things, capital improvements, repair or replacement of the Common Elements, allocations to reserves and other extraordinary expenses. Such special assessments must be approved by the Board but shall not be payable if seventy-five percent (75%) of the total votes of the Association vote against such assessment at a duly convened special meeting held within forty-five (45) days of delivery of notice of the special assessment to Unit Owners. If a vote against the proposed special assessment is not sustained, the special assessment shall be due and payable ten (10) days after expiration of the forty-five (45) day period in which the Unit Owners may consider action to veto a special assessment.

4. RECORDS. The Association shall keep detailed records of all receipts and expenditures and of all assets and liabilities. The Association shall provide to all Unit Owners at no additional charge within 75 days of the close of the fiscal year of the Association an annual income and expense statement and balance sheet. A compilation, review or audit may be required by a vote of the majority of the Board or by the affirmative vote of a majority of the Unit Owners voting at an Association meeting at which there is a quorum. The Association shall make all its financial records and all other Association records, including records of Association meetings or Executive Board meetings available for examination by any Unit Owner (or such Owner's authorized agent) during reasonable business hours.

5. DEFAULT IN PAYMENT OF ASSESSMENTS. The Board shall take prompt action to collect any periodic and special assessments, or portions thereof, due from any Unit Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof. In the event of default by any Unit Owner in paying any assessments as determined by the Board, such Unit Owner shall be obligated to pay a late charge of the greater of \$20.00 or 10% of the amount of the unpaid installment, together with all expenses, including attorney's fees, incurred by the Board in any proceeding brought to collect such unpaid assessments. The Board shall have the right and duty to attempt to recover such assessments, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by N.C.G.S. § 47C-3-116. With regard to the subordinate nature of such liens as it relates to mortgages recorded prior to the recording of any evidence of such lien, the provisions of N.C.G.S. § 47-3-116(b) shall be controlling.

6. STATEMENT OF ASSESSMENTS OR OTHER CHARGES. The Board shall, for a reasonable fee, promptly provide any purchaser, Unit Owner, encumbrancer or prospective encumbrancer of a Unit so requesting the same in writing, with a written statement of all unpaid assessments or other charges due from the Owner of that Unit and the purchaser's liability therefor shall be limited to the amount as set forth in the statement.

7. MAINTENANCE AND REPAIR.

a. Each Unit Owner must perform work within his own Unit, which, if omitted, would affect the Property in its entirety or in a part belonging to another Unit Owner, being expressly responsible for the damages and liabilities that his or her or its failure to do so may engender.

b. All the repairs of the Units and of those items described in Section 3.3 of the Declaration shall be made by and at the expense of the Unit Owner.

c. All maintenance, repair and replacement to the Common Elements, unless otherwise provided in the Declaration, shall be made by the Association and shall be charged to all the Unit Owners as a Common Expense.

8. UTILITIES. Certain utility services may be shared by more than one Unit, and those Unit(s) may also share such service(s) with the Common Elements. The Association shall maintain in its own name any utility account for a utility service which is shared by two (2) or more Units or the Common Elements. The Association shall receive and pay the invoices for such shared utility service, and shall bill the Units served by such service in an equitable manner as the Board may reasonable determine. Such charges shall be deemed assessments under the Declaration and these Bylaws and shall be secured by a lien pursuant to N.C.G.S. § 47C-3-116.

9. SUBJECT TO DECLARATION. All Unit Owners, their tenants, invitees, or any other party occupying a Unit is subject to the terms and conditions of the Declaration.

10. USE OF COMMON ELEMENTS. A Unit Owner, or tenants or invitees thereof, shall not place or cause to be placed in the walkways, sidewalks, driveways, parking spaces, yards, passages, elevators, stairwells, or other common areas any furniture, packages or obstructions of any kind. Such areas shall be held in common for the enjoyment of the Unit Owners or their designated tenants and shall be used for no purpose other than for normal transit through or use of them.

11. RIGHT OF ENTRY.

a. A Unit Owner or designated tenant shall grant the right of entry to any person authorized by the Board in case of any emergency originating in or threatening his or its Unit, whether or not the Unit Owner is present at the time.

b. A Unit Owner or designated tenant shall permit the Association, or its representatives, when so required, to enter his or its Unit for the purpose of performing installations, alterations, or repairs to the Common Elements when it is reasonably necessary to access said Common Elements through a Unit, provided that such requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or designated tenant. In case of emergency, the right of entry shall be immediate.

12. RULES AND REGULATIONS. In order to assure the peaceful and orderly use and enjoyment of the Units and Common Elements, the Board may from time to time adopt, modify, and revoke in whole or in part such reasonable rules and regulations, to be called Rules and Regulations, governing the conduct of people on the Property. Such Rules and Regulations, upon adoption, and every amendment, modification, and revocation thereof, shall be delivered promptly to each Unit Owner by posting the same with postage prepaid addressed to the Unit Owner at the last registered address of the Unit Owner, or shall be delivered by electronic mail, and shall be binding upon all Unit Owners and the occupants of Units in the Condominium. The initial Rules and Regulations for the Condominium are as adopted by the Declarant and are attached hereto as Appendix I to these Bylaws.

13. ABATEMENT AND ENJOINMENT OF VIOLATIONS BY UNIT OWNERS. The violation of any Rules and Regulations adopted by the Board or the breach of any Bylaws contained herein, or the breach of any provisions of the Declaration, shall give the Association the right, in addition to any other rights set forth in these Bylaws: (a) to enter the Unit in which such violation or breach exists and to remedy, at the expense of the defaulting Unit Owner, the violation or breach, and the representatives of the Association entering such Unit shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach and to recover the cost of such enforcement, including attorney's fees, and until such expense is recovered it shall be a lien upon said Unit, which lien shall be inferior to the lien of all prior mortgages.

14. LITIGATION. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the total votes of the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Declaration (including, without limitation, the foreclosure of liens) or these Bylaws; (b) the imposition and collection of assessments as provided herein; (c) proceedings involving challenges to *ad valorem* taxation; or (d) defense of claims in proceedings initiated against the Association and counterclaims brought by the Association in proceedings instituted against it. In the event any claim is made against Declarant or any litigation is instituted against Declarant, then the Association shall impose a special assessment against all members, other than the Declarant (if permitted by law), for the costs of the claim or litigation, including, without limitation, attorney's fees incurred, and funds from periodic assessments shall not be used for any such claim or litigation.

15. ENFORCEMENT. The Association is empowered to enforce the terms and provisions of the Declaration, these Bylaws, and the Rules and Regulations by any proceeding at law or equity allowable under the North Carolina Condominium Act. If an Owner has violated the terms and provisions of the Declaration, these Bylaws, or the Rules and Regulations, the Board or an adjudicatory panel appointed by the Board has the power to conduct a hearing to determine if (a) such violating Owner should be fined for (up to a maximum of one hundred dollars (\$100.00) per violation, and (b) whether condominium privileges or services should be suspended. The Unit Owner charged shall be given written notice of the charge at least ten (10) days prior to the hearing, an opportunity to be heard and to present evidence at the hearing, and written notice of the decision within three (3) days of the conclusion of the hearing. If a

suspension of condominium privileges or services is imposed, such suspension may be continued until the violation or delinquency is cured. A Unit Owner may appeal a decision of an adjudicatory panel to the full Executive Board by delivering written notice of appeal to the Executive Board within 15 days after receiving the written decision of the adjudicatory panel. A fine under this section shall be an assessment secured by the lien established pursuant to the Declaration and N.C.G.S. § 47C-3-116.

## **ARTICLE VII** **INSURANCE**

The Association shall be required to obtain from generally acceptable insurance carriers which meet the requirements set forth in the FNMA Conventional Home Mortgage Selling Contract Supplement and the FHLMC Sellers Guide and maintain, as set forth below, in forms and amounts as hereinafter described, the following insurance, without prejudice to the right of a Unit Owner to obtain additional individual insurance at his or her or its own expense:

1. HAZARD INSURANCE. The Board shall cause the Property to be insured, as it may be constituted from time to time, against loss or damage due to all risks of direct physical loss commonly insured against, including fire and extended coverage perils, in an amount not less than the maximum insurable replacement value of the Property as determined by the Board upon recommendation made by the Condominium's insurer, it being understood that the Board, at its discretion, may have an appraisal made of the Property for this purpose, or in the amount reasonably obtainable as it relates to certain perils. The Board shall have the authority also to insure against other hazards and risks as it may deem desirable for protection of the Property. All hazard insurance shall cover the entire Property, exclusive only of the improvements and betterments installed by the Unit Owners and contents and furnishings of the individual Units.

a. All hazard insurance policies obtained by the Board, shall designate the Association as the named insured as Insurance Trustee for the benefit of all the Owners and their mortgagees collectively, as their respective interests may appear. In the event of loss or damage, all insurance proceeds shall be paid to the Association as Insurance Trustee, it being understood and acknowledged that the distribution of such proceeds shall be controlled by the Act.

b. All hazard insurance policies obtained by the Board shall provide for the issuance of certificates of insurance to each Unit Owner. Each Certificate shall evidence the issuance of the master policy and shall indicate the amount of insurance covering the building within which the respective Unit is located. If a Unit is mortgaged, a certificate of insurance shall be issued to the mortgagee bearing a standard mortgagee endorsement, if requested.

c. If obtainable, all hazard insurance policies upon the Property shall include provisions providing that (i) each Unit Owner is an insured person under the policy with respect to liability arising out of his or her or its interest in the Common Elements or membership in the Association; (ii) the insurer waives any rights to subrogation under the policy against any Unit Owner, members of his or her household or such Unit Owner's employees; (iii) no act or omission by any Unit Owner, unless acting within the scope of his or her or its authority on behalf of the Association, will preclude recovery under the policy and (iv) if, at the time of loss

under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

d. Each mortgagee of which the Board has notice as herein provided shall be entitled to receive upon request a statement of the replacement value as determined according to these Bylaws. If any such mortgagee disagrees with the values assigned to the Property by such determination and presents an appraisal prepared at such mortgagee's expense showing higher values which has been performed by a qualified appraiser, then the Board shall either adopt the higher value or shall cause a reappraisal to be made by a qualified appraiser approved by the Board and by the appraisers who conducted the prior appraisals and the findings of the third appraiser shall be conclusive to determine such value for insurance purposes.

e. Each hazard insurance policy shall contain a loss payee provision designating the interest of the various mortgagees as to the various Units within the Condominium which are covered by the master policy. Such policies shall also provide that they shall not be canceled without giving thirty (30) days prior written notice to all such mortgagees as to whom the insurer has been given written notice.

2. PUBLIC LIABILITY INSURANCE AND UMBRELLA LIABILITY INSURANCE. The Board shall cause to be obtained comprehensive public liability insurance with the minimum coverages established by the Declaration, directors' and officers' liability insurance, and umbrella liability insurance with limits and provisions as it deems desirable and as may be obtainable. All such policies shall contain severability of interest clauses or endorsements extending coverage to liabilities of the Association to a Unit Owner and to liabilities of one Unit Owner to another Unit Owner.

3. PREMIUM. All premiums upon insurance policies purchased by the Association shall be assessed as Common Expenses to be paid by the Unit Owners through periodic assessment.

4. ADJUSTMENT. Each Unit Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under policies purchased by the Association, subject to the rights of mortgagees of such Unit Owners.

5. INSURANCE BY UNIT OWNERS. Each Unit Owner shall be responsible for obtaining, at his sole expense, certain insurance as provided in the Declaration.

6. SUBSTITUTION OF INSURANCE TRUSTEE. The Association, in its discretion, may decline to serve as Insurance Trustee and may appoint in its place any financial institution which is qualified and willing to act as Trustee and which also has offices in the county in which the Condominium lies. Any substitute Insurance Trustee appointed by the Association shall succeed to all of the powers and responsibilities vested in the Association as Insurance Trustee under the terms of these Bylaws.

7. ADDITIONAL POLICY REQUIREMENTS. No insurance policy obtained by the Association pursuant to this Article VII shall contain or be subject to the following: (a) terms

of the insurance carrier's charter, by-laws or policy that permit contributions or assessments to be made against borrowers, Federal National Mortgage Association ("FNMA") or Federal Home Loan Mortgage Corporation ("FHLMC") or the designee of FNMA or FHLMC; or (b) terms of the carrier's charter, bylaws or policy that provide loss payments are contingent upon action by the carrier's board of directors, policyholders or members; or (c) policy provisions that include any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC or the borrowers from collecting insurance proceeds. All insurance policies acquired pursuant to this Article VII must recognize any Substitute Insurance Trustee, if any.

## **ARTICLE VIII**

### **RECONSTRUCTION AND REPAIR**

In the event of casualty loss or damage to the Property, the Board shall be responsible for applying the proceeds of all casualty insurance to the repair or reconstruction of the Property in accordance with the provisions of N.C.G.S. § 47C-3-113(h), as amended. The Property shall be repaired in the following manner:

1. Any reconstruction or repair must follow substantially the original plans and specifications of the Property unless the Unit Owners holding eighty percent (80%) or more of the total votes in the Association and their mortgagees, if any, vote to adopt different plans and specifications.

2. The Board shall promptly obtain estimates of the cost required to restore the damaged property to its condition before the casualty occurred, including soft costs such as professional fees and premiums for bids as the Board deems necessary.

3. If the insurance proceeds paid to the Board are insufficient to cover the cost of reconstruction, the deficiency shall be paid as a special assessment by the Unit Owners whose units are being reconstructed or repaired in proportion to the damage done to their respective Units.

4. The insurance proceeds received by the Board and the mortgagees, and any special assessments collected to cover a deficiency in insurance shall constitute a construction fund from which the Board shall disburse payment of the costs of reconstruction and repair. The first disbursements from the construction fund shall be insurance proceeds, and if there is a balance in the fund after payment of all costs of reconstruction and repair, it shall be distributed to the Unit Owners who paid special assessments in proportion to their payments. Any balance remaining after such distribution shall be retained by the Association.

## **ARTICLE IX**

### **INSURANCE TRUST**

In the event of casualty loss to the Property, all insurance proceeds indemnifying the loss or damage shall be paid to the Association as Insurance Trustee. The Association, acting as

Insurance Trustee, shall receive and hold all insurance proceeds in trust for the purposes stated in this Article, and for the benefit of the Association, the Unit Owners, and their respective mortgagees in the following share:

1. Insurance proceeds paid on account of loss or damage to the Common Elements only shall be held in the same proportion as the undivided interests in the Common Elements which are appurtenant to each of the Units.

2. Insurance proceeds paid on account of loss or damage to fewer than all of the Units, when the damage is to be restored, shall be held for the benefit of Unit Owners of the damaged Units and their respective mortgagees in proportion to the costs of repairing each damaged Unit.

3. Insurance proceeds paid when the entire Property is not to be restored shall be held for the benefit of all Unit Owners, and their respective mortgagees, the share of each being equal to the undivided share or interest in Common Elements appurtenant to the applicable Unit.

4. In the event a certificate of insurance has been issued to a Unit Owner bearing a mortgagee endorsement, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except for insurance proceeds required by the loan documents to be paid jointly to the Unit Owners and their respective mortgagees pursuant to the provisions of this Declaration.

#### **ARTICLE X** **MORTGAGES (DEEDS OF TRUST)**

1. NOTICE TO BOARD. A Unit Owner who mortgages his Unit shall notify the Board of the name and address of his Mortgagee.

2. STATEMENTS TO MORTGAGEE. Upon written request to the Association from any mortgagee of which it has notice as herein provided, the Board shall supply such mortgagee with a reasonably current financial statement of the Association within a reasonable time of such request.

**ARTICLE XI**  
**AMENDMENTS**

Subject to Article XIII hereof, these Bylaws may be amended only with the consent of Units Owners to which at least seventy five (75%) percent of the votes in the Association are allocated. Provided, however, where a greater percentage of the vote of Unit Owners is expressly required in the Declaration, by the Act or these Bylaws to take action by the Unit Owners, these Bylaws may not be amended to decrease such greater percentage of votes without the consent of Unit Owners holding that greater percentage of votes.

Notwithstanding the foregoing, so long as the Declarant remains the Owner of one or more Units in this Condominium or during that period which is prior to the expiration of the Special Declarant Rights, these Bylaws shall not be amended so as to adversely affect the Declarant or impair in any way the Special Declarant Rights without the Declarant's written consent and joinder.

**ARTICLE XII**  
**MISCELLANEOUS MATTERS**

1. GENDER: NUMBER. The use of the feminine gender in these Bylaws includes the masculine gender, and when the context requires, the use of the singular includes the plural.
2. DEFINITIONS. Capitalized, defined terms used in these Bylaws shall have the meanings ascribed to them in the Declaration unless specifically set forth in these Bylaws.
3. EXECUTION OF DOCUMENTS. The President or Vice President and Secretary or Assistant Secretary are responsible for preparing, executing, filing and recording amendments to the Declaration and Bylaws, and shall be authorized to execute any other document which the Association may from time to time be required to execute. Notwithstanding the foregoing, the President or Vice President, without the joinder of the Secretary or Assistant Secretary, may execute amendments to the Declaration if the same is permitted by the Declaration and by North Carolina law.
4. NOTICES. All notices required by these Bylaws shall be hand delivered, sent by mail to the Association, or sent by electronic mail at the physical or electronic mail address of the President, and to Unit Owners at the physical address of the Unit or at such other physical address or electronic address as may have been designated by such Unit Owner from time to time in writing to the Association. All notices from or to the Association shall be deemed to have been given when mailed or delivered, except notice of changes of address which shall be deemed to have been given when received.
5. CAPTIONS. The captions contained in these Bylaws are inserted as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision of the Bylaws.

6. INVALIDITY. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.

7. CONFLICT. These Bylaws are set forth to comply with the requirements of the North Carolina Condominium Act, the Articles, and the Declaration, all as the same may be amended. In the event of any conflict between these Bylaws and the provisions of such Act or the Declaration, the provisions of such Act or the Declaration, as the case may be, shall control.

8. WAIVER. No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the violations or breaches thereof which may occur.

9. AVAILABILITY OF CONDOMINIUM DOCUMENTS. The Association shall make available to Unit Owners, lenders and the holders and insurers of the first mortgage on any Unit, current copies of the Declaration, these Bylaws, the Rules of Conduct, and other books, records and financial statements of the Association. The Association shall also make available to prospective purchasers current copies of the Declaration, these Bylaws, the Rules of Conduct and the most recent annual audited financial statements of the Association, if such is prepared. As used herein, "available" means available for inspection upon request, during normal business hours. Upon written request from HUD, VA, FHA, FNMA, FHLMC, or Ginnie Mae which has an interest or prospective interest in the Condominium, the Association shall prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

### ARTICLE XIII RIGHTS OF FIRST LIEN HOLDERS

1. NOTICES OF ACTION. A holder, insurer or guarantor of a first mortgage on a Unit which is entitled to the rights set forth in Section 9 of Directive No. 4265.1, Chg. 4, Appendix 24 issued by the U.S. Department of Housing and Urban Development and which has given to the Association a written request for notice stating the name and address of such holder, insurer or guarantor and the Unit number (hereinafter referred to as an "Eligible Holder"), will be entitled, and the Executive Board shall cause to be delivered, timely written notice of the following:

a. Any proposed amendment of the Condominium Documents effecting a change in (i) the boundaries of any Unit or the exclusive easement rights appertaining thereto; (ii) the interests in the Common Elements or Limited Common Elements appertaining to any Unit or the liability for Common Expenses thereto; (iii) the Common Interests allocated to any Unit; or (iv) the purposes to which any Unit or the Common Elements are restricted;

b. Any proposed termination of the Condominium;

c. Any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a first mortgage held, insured or guaranteed by an Eligible Holder;

d. Any delinquency in the payment of assessments or charges owed by a Unit Owner subject to the mortgage that is held, insured or guaranteed by an Eligible Holder, where such delinquency has continued for a period of sixty (60) days; or

e. Any lapse, cancellation or material modification of any insurance policy maintained by the association pursuant to Article VII hereof.

2. APPROVAL RIGHTS FOR ELIGIBLE HOLDERS. The approval of Eligible Holders shall be required in the instances hereinafter set forth:

a. Termination of Condominium.

(i) Upon Casualty or Condemnation. Any election to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Property requires the approval of the Eligible Holders of first mortgages on Units to which at least fifty one percent (51%) of the votes of Units subject to mortgages held by such eligible Holders are allocated.

(ii) In Absence of Casualty or Condemnation. The approval of the Eligible Holders of first mortgages on Units to which at least sixty seven percent (67%) of the votes of Units subject to a mortgage appertain, shall be required to terminate the Condominium.

b. Restoration or Repair. Any restoration or repair of the Condominium after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless the approval is obtained of the Eligible holders of first mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Holders are allocated.

c. Amendment of Condominium Documents. The approval of the Eligible Holders of first mortgages on Units to which at least fifty one percent (51%) of the votes of Units subject to a mortgage appertain, shall be required to materially amend any provisions of the Condominium Documents or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

(i) Voting;

(ii) Assessments, assessment liens or subordination of such liens;

(iii) Reserves for maintenance, repair and replacement of the Common Elements;

(iv) Insurance or fidelity bonds;

(v) Rights to the use of Common Elements;

(vi) Responsibility for maintenance and repair of the Common Elements;

(vii) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;

- (viii) Boundaries of any Unit;
- (ix) The interests in the Common Elements or Limited Common Elements;
- (x) Convertibility of Units into Common Elements or of Common Elements into Units;
- (xi) Leasing of Units;
- (x) Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit in the Condominium;
- (xi) Establishment of self-management by the Association where professional management has been required by HUD, VA, FHA, FNMA, FHLMC, or Ginnie Mae; or
- (xii) Any amendment to a provision in the Condominium Documents which is for the express benefit of holders or insurers of first mortgages on Units.

**APPENDIX I  
TO BYLAWS  
OF  
MANGUM 506 CONDOMINIUM**

**RULES AND REGULATIONS**

1. Residents shall exercise extreme care to avoid unnecessary noise or the use of musical instruments, radios, televisions and amplifiers that may disturb other residents.
2. No Residential Unit Owner shall:
  - (a) Post any advertisements or posters of any kind in or on the Property except as authorized by the Association;
  - (b) Hang garments, towels, rugs, or similar objects from the windows or balconies or from any of the facades of the Property; or
  - (c) Clean dust mops, rugs or similar objects from the windows or balconies by beating on the exterior part of the Property.
3. No Unit Owner shall:
  - (a) Throw trash or recycling outside the areas specifically provided for such purposes;
  - (b) Act so as to interfere unreasonably with the peace and enjoyment of the residents of the other Units in the Property;
  - (c) Maintain any pets, which cause distress to Unit Owners through repeated barking, making other noises, biting, scratching, soiling, or damaging of property; or
  - (d) Operate, park, or store on the Common Elements any automobiles, recreational vehicles, motor homes, motorcycles, trucks, trailers, commercial vans or boats without permission of the Executive Board, except that scooters and bicycles may be kept in the area designated by the Board.
  - (e) No Unit Owner shall install wiring for electrical or telephone installations, television or radio antenna, air conditioning fixtures, or similar objects outside of his/her or its Unit or which protrudes through the walls or the roof of the Unit except as authorized by the Executive Board.
4. It shall be the responsibility of each Unit Owner to prevent any unclean, unsightly or unkempt condition in or around his/her or its Unit or elsewhere on the Property's grounds,

which shall tend to substantially decrease the beauty of the condominium, the neighborhood as a whole or the specific area.

5. No structure of a temporary character shall be placed upon the Property at any time; provided, however, that this prohibition shall not apply to shelters or temporary structures used by the contractor or developer during the construction of the Property, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the Property after completion of construction. The design and color of structures temporarily placed on the Property by a contractor shall be subject to reasonable aesthetic control by the Declarant.

6. No tent, barn, tree house or other similar outbuilding or structure shall be placed on the Property at any time, either temporarily or permanently; provided, however, that the Declarant reserves the right to grant approval in writing for temporary construction facilities to be placed on the Property.

7. No noxious or offensive activity shall be carried on, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the other Owners. There shall not be maintained any plants or animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property by the other Owners.

8. Any window covering (blinds, shutters, drapes, curtains, etc.) used or maintained by Residential Unit Owners in Residential Units shall be white in color when viewed from the exterior of the Building.

**ATTACHMENT D**  
**TO**  
**PUBLIC OFFERING STATEMENT**

Projected Budget for Mangum 506 Condominium Owners Association

This projected budget is for the year following the first sale of a unit in Mangum 506 Condominium. The numbers below are estimates. This budget was prepared by M506, LLC using a zero percent inflation assumption. Each Unit Owner will be responsible for a percentage of the total common expenses based on the Fractional Shares attributable to the units which are shown on Exhibit B to the Declaration of Condominium which is Attachment A.

<b>ALL UNITS</b>	
Management Fee	3,600
Insurance	5,600
Accounting	500
Tree Maintenance	500
Pest Control	400
Landscaping Maintenance	1,200
Telephone for Fire Alarm	2,400
Exterior Painting (5 years)	5,000
Roof maintenance	3,000
Subtotal	22,200
<b>RESIDENTIAL UNITS</b>	
Water/Sewer (Residential sub-meter)	5,280
Electricity for Common Areas (including courtyard lights)	2,400
Window washing - upper (2/yr)	1,800
Common Areas	
Cleaning	2,500
Paint/Replace carpets	3,500
Garbage	8,000
Subtotal	23,480
<b>GARAGE UNITS</b>	
None	0
Subtotal	0
<b>COMMERCIAL UNITS</b>	
Water/Sewer (Commercial sub-meter)	
Window washing - storefronts	2,500
Subtotal	2,500
<b>GRAND TOTAL</b>	
	48,180

Projected Annual Fees for Each Unit

The estimated fees for each Unit for the year following the first sale of a unit in Mangum 506 Condominium are shown in this table.<sup>1</sup>

Building	Unit Number	Expenses				TOTAL	
		All Units	Commercial Only	Residential Only	Garages Only		
Front	Comm. Unit	\$2,545	\$2,500			\$5,045	
	101	\$640		\$992		\$1,632	
	201	\$1,029		\$1,594		\$2,622	
	202	\$1,003		\$1,554		\$2,558	
	203	\$631		\$977		\$1,608	
	204	\$674		\$1,043		\$1,717	
	205	\$631		\$977		\$1,608	
	206	\$674		\$1,043		\$1,717	
	207	\$792		\$1,226		\$2,018	
	208	\$831		\$1,287		\$2,118	
	301	\$1,133		\$1,755		\$2,888	
	302	\$1,003		\$1,554		\$2,558	
	303	\$938		\$1,453		\$2,390	
	304	\$792		\$1,226		\$2,018	
		Garage A	\$238			\$0	\$238
		Garage B	\$237			\$0	\$237
		Garage C	\$237			\$0	\$237
		Garage D	\$239			\$0	\$239
		Garage E	\$238			\$0	\$238
		Garage F	\$237			\$0	\$237
	Garage G	\$272			\$0	\$272	
Back	401	\$898		\$850	\$0	\$1,748	
	402	\$898		\$850	\$0	\$1,748	
	403	\$898		\$850	\$0	\$1,748	
	404	\$898		\$850	\$0	\$1,748	
	405	\$898		\$850	\$0	\$1,748	
	406	\$898		\$850	\$0	\$1,748	
	407	\$898		\$850	\$0	\$1,748	
	408	\$898		\$850	\$0	\$1,748	
		\$22,200	\$2,500	\$23,480	\$0	\$48,180	

<sup>1</sup> This table is for illustrative purposes based on the number of Units in the current development plan for the Condominium. Subject to the maximum number of Units, Declarant reserves the right to revise this table to conform it with the actual number and sizes of units constructed.

**ATTACHMENT E**  
**TO**  
**PUBLIC OFFERING STATEMENT**

**Proposed Exceptions of Title for Mangum 506 Condominium  
(Existing)**

1. Ad valorem taxes for the year in which the Unit sales closing occurs (unless Declarant is responsible for such taxes under the purchase contract);
2. Declaration of Condominium for Mangum 506 Condominium recorded in Deed Book 6271, Page 97, Durham County Registry and those plats and plans for Mangum 506 Condominium recorded in Condominium Plat Book 11, Pages 207 through 217, Durham County Registry;
3. Absolute Release and Indemnification Agreement recorded in Book 2166, Page 14, Durham County Registry;
4. Matters shown on the plat recorded in Plat Book 182, Page 180, Durham County Registry;;
5. General utility easements and unviolated restrictive covenants that do not materially affect the value of the Unit; and
6. Matters that would be revealed by a current and accurate survey of the condominium property.