



Pineland

Cumberland Hall
41 Campus Drive, Suite 101
New Gloucester, ME 04260

Portland

565 Congress Street, Suite 201
Portland, ME 04101

Project #1938

May 8, 2020

Ms. Megan Norwood, City Planner II
City of Auburn
Planning, Permitting & Code Division
60 Court Street
Auburn, ME 04210

Development Review Application - PUD - Mystique Way Expansion

Introduction

On behalf of Mystique Way, LLC, we are pleased to submit the attached Development Review Application. The Planning Board approved a major amendment to the Mystique Way site plan at the April 14, 2020 meeting. To supplement its site plan approval, the applicant intends to develop the property as a commercial land condominium and is therefore seeking approval of an Industrial Planned Unit Development. Each “unit” of the condominium will generally consist of the building envelope for the improvements depicted on the approved site plan, together with areas necessary for access to the improvements. All uses that are allowed within the industrial zone will be permitted within the development under the condominium’s governing documents. However, the applicant has received significant interest in many of the proposed units from potential purchasers in the cannabis industry who are interested in locating their operations within the development. The City stands to benefit both from attracting cannabis businesses and also in grouping them together, as appears will naturally occur within this development. The property is eligible for a PUD-I because it is located within the industrial zone, is larger than 5 acres, and will be serviced by public sewer.

In addition to property lines, the attached site plan has been slightly modified to reflect the needs of potential buyers. The approved plan features 5 buildings located directly adjacent to Mystique Way that total 51,000 SF. They’ve been combined into 4 buildings that total the same areas. The project impervious area remains unchanged from the previously approved plan.

Much of the project infrastructure was built during the fall of 2019 including five buildings, the majority of Majestic Way, public sewer and public water. Construction of the remaining shared infrastructure will be completed this year.

Article 3, Section 3.51.D.5 of the City zoning ordinance outlines nine criteria that must be met for all Planned Unit Developments. Those criteria are listed below with a brief description of how they’ve been met.

- (1) There is an appropriate relationship to the surrounding area. ***The project site is located within the Industrial Zone. It is surrounded by commercial & industrial uses. This plan simply creates lot lines around the previously approved site plan.***
- (2) Circulation, in terms of internal street circulation system, is designed for the type of traffic generated, safety, separation from living areas, convenience, access and noise and exhaust control. Proper circulation in parking areas is designed for safety, convenience, separation and screening. ***Mystique Way will be a 24' wide paved road. It will have a turnaround at the end that meets City standards. The internal parking lots were designed to allow easy access for both employees & delivery vehicles. There are no living areas on or adjacent to the property.***
- (3) Functional open space in terms of optimum preservation of natural features including trees and drainage areas, recreation, views, density relief and convenience of functions. ***Common open space has been provided over most the onsite wetlands.***
- (4) Privacy in terms of needs of individuals, families and neighbors. ***The property is not easily visible from Minot Avenue. There are no residences on adjacent parcels.***
- (5) Pedestrian bicycle traffic in terms of safety, separation, convenience, access points of destination and attractiveness; ***This standard is not applicable. The property is located within the industrial zone.***
- (6) Building types in terms of appropriateness to density, site relationship and bulk. ***Several buildings have already been built as part of a previous phase. The new buildings will be of the same general style (agricultural/industrial) as the existing buildings. Only the retail building is remotely visible from Minot Avenue.***
- (7) Building design in terms of orientation, spacing, materials, color and texture, storage, signs and lighting. ***The new buildings will be of the same general style, color and texture (agricultural/industrial greenhouses) as the existing buildings. Most of the buildings are oriented in a north/south direction to take advantage of the available sunlight. The buildings will be outfitted with mounted lights.***
- (8) Landscaping of total site in terms of purpose such as screening, ornamental types used, and materials uses, if any; maintenance, suitability and effect on the neighborhood. ***We added a perimeter landscaping buffer in perimeter areas that were without existing tree cover as part of the previously approved site plan.***
- (9) There is public sewer available to the lot or will be made available by the developer prior to Certificates of Occupancy being issued. ***The public sewer system has been extended to the site. It was constructed as part of the first phase.***

It is important to note that this application does not result in changes to the engineering aspects of the previous approval. The previously reviewed stormwater calculations, roadway & utility designs and erosion control measures are all still valid. We have not re-submitted that information.

The project received a full review from City staff during the site plan review process. The following items were previously submitted as part of that submission process:

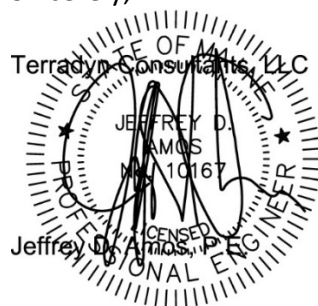
- Site Plan Application & Materials
- Maine DEP Site Location of Development Permit Application & Materials
 - Project Description
 - Deeds
 - Financial Capability
 - Erosion Control Plan
- Stormwater Management Plan
- Traffic Assessment Report
- Construction Plans

The following items are attached to this submittal:

- Development Review Application Fee
- Development Review Application
- Final Development Plan

We are hopeful that you will review the enclosed plans & materials and place us on the June 9th planning board agenda. Thank you for your consideration, and please call me if you have any questions as you review the enclosed plans and information.

Sincerely,





Development Review Application

City of Auburn Planning and Permitting Department
City of Lewiston Department of Planning and Code Enforcement



PROJECT NAME: Mystique Way Planned Unit Development

PROPOSED DEVELOPMENT ADDRESS: Mystique Way

PARCEL ID#: Tax Map 206, Lot 058 Deed Book 9894, Page 73

REVIEW TYPE: **Site Plan** **Site Plan Amendment**
 Subdivision **Subdivision Amendment**

PROJECT DESCRIPTION: Planned unit development for a commercial condominium consisting of 18 buildings spread over 10 condominium unit areas. Units will be accessed from Mystique Way, a 24' wide paved access driveway.

CONTACT INFORMATION:

Applicant

Name: Mystique Way, LLC
Address: 200 Riverside Industrial Parkway
Zip Code: Portland, ME 04103
Work #: _____
Cell #: 207-939-8299
Fax #: _____
Home #: _____
Email: MystiqueOfMaineSean@gmail.com

Project Representative

Name: Jeffrey D. Amos, P.E.(Terradyn Consultants)
Address: 41 Campus Drive, Suite 101
Zip Code: New Gloucester, ME 04260
Work #: 207-926-5111
Cell #: _____
Fax #: _____
Home #: _____
Email: jeff@terradyneconsultants.com

Property Owner

Name: Same as applicant
Address: _____
Zip Code: _____
Work #: _____
Cell #: _____
Fax #: _____
Home #: _____
Email: _____

Other professional representatives for the project (surveyors, engineers, etc.)

Name: Stuart Davis, PLS: Davis Land Surveying
Address: PO Box 46
Zip Code: Plymouth, ME 04969
Work #: Portland, ME 04103
Cell #: _____
Fax #: _____
Home #: _____
Email: Stuart@davislandsurveying.net

PROJECT DATA

The following information is required where applicable, in order complete the application

IMPERVIOUS SURFACE AREA/RATIO

Existing Total Impervious Area	127,000	sq. ft.
Proposed Total Paved Area	145,360	sq. ft.
Proposed Total Impervious Area	300,000	sq. ft.
Proposed Impervious Net Change	173,000	sq. ft.
Impervious surface ratio existing	9.1	% of lot area
Impervious surface ratio proposed	21.5	% of lot area

BUILDING AREA/LOT COVERAGE

Existing Building Footprint	38,133	sq. ft.
Proposed Building Footprint	154,640	sq. ft.
Proposed Building Footprint Net change	116,507	sq. ft.
Existing Total Building Floor Area	38,133	sq. ft.
Proposed Total Building Floor Area	154,640	sq. ft.
Proposed Building Floor Area Net Change	116,507	sq. ft.
New Building	YES	(yes or no)
Building Area/Lot coverage existing	2.7	% of lot area
Building Area/Lot coverage proposed	11.1	% of lot area

ZONING

Existing	Industrial
Proposed, if applicable	Industrial

LAND USE

Existing	Commercial/Industrial
Proposed	Commercial/Industrial

RESIDENTIAL, IF APPLICABLE

Existing Number of Residential Units	Not Applicable
Proposed Number of Residential Units	_____
Subdivision, Proposed Number of Lots	_____

PARKING SPACES

Existing Number of Parking Spaces	16
Proposed Number of Parking Spaces	99
Number of Handicapped Parking Spaces	6
Proposed Total Parking Spaces	99

ESTIMATED COST OF PROJECT

\$1.2 Million

DELEGATED REVIEW AUTHORITY CHECKLIST

SITE LOCATION OF DEVELOPMENT AND STORMWATER MANAGEMENT

Existing Impervious Area	0 (per SLODA)	sq. ft.
Proposed Disturbed Area	10.88 Acres	sq. ft.
Proposed Impervious Area	6.88 Acres	sq. ft.

1. *If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with MDEP.*
2. *If the proposed impervious area is greater than one acre including any impervious area crated since 11/16/05, then the applicant shall apply for a MDEP Stormwater Management Permit, Chapter 500, with the City.*
3. *If total impervious area (including structures, pavement, etc) is greater than 3 acres since 1971 but less than 7 acres, then the applicant shall apply for a Site Location of Development Permit with the City. If more than 7 acres then the application shall be made to MDEP unless determined otherwise.*
4. *If the development is a subdivision of more than 20 acres but less than 100 acres then the applicant shall apply for a Site Location of Development Permit with the City. If more than 100 acres then the application shall be made to MDEP unless determined otherwise.*

TRAFFIC ESTIMATE

Total traffic estimated in the peak hour-existing (Since July 1, 1997) 26 passenger car equivalents (PCE)

Total traffic estimated in the peak hour-proposed (Since July 1, 1997)⁵⁸ _____ passenger car equivalents (PCE)
 If the proposed increase in traffic exceeds 100 one-way trips in the peak hour then a traffic movement permit will be required.

Zoning Summary

1. Property is located in the Industrial zoning district.
 2. Parcel Area: 32 acres / _____ square feet(sf).

Regulations	<u>Required/Allowed</u>	<u>Provided</u>
Min Lot Area	_____	/ _____
Street Frontage	<u>150</u>	/ _____
Min Front Yard	<u>35</u>	/ <u>35</u>
Min Rear Yard	<u>50</u>	/ <u>50</u>
Min Side Yard	<u>35</u>	/ <u>35</u>
Max. Building Height	<u>N/A</u>	/ <u>N/A</u>
Use Designation	_____	/ _____
Parking Requirement	1 space/ per _____ square feet of floor area	
Total Parking:	<u>99</u>	/ _____
Overlay zoning districts(if any):	_____	/ _____
Urban impaired stream watershed?	YES/NO If yes, watershed name ^{NO} _____	

DEVELOPMENT REVIEW APPLICATION SUBMISSION

Submissions shall include fifteen (15) complete packets containing the following materials:

1. Full size plans containing the information found in the attached sample plan checklist.
2. Application form that is completed and signed.
3. Cover letter stating the nature of the project.
4. All written submittals including evidence of right, title and interest.
5. Copy of the checklist completed for the proposal listing the material contained in the submitted application.

Refer to the application checklist for a detailed list of submittal requirements.

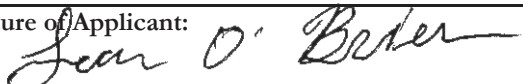
L/A's development review process and requirements have been made similar for convenience and to encourage development. Each City's ordinances are available online at their prospective websites:

Auburn: www.auburnmaine.org under City Departments/ Planning and Permitting/Land Use Division/[Zoning Ordinance](#)

Lewiston: <http://www.ci.lewiston.me.us/clerk/ordinances.htm> Refer to Appendix A of the Code of Ordinances

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, I certify that the City's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for development review only; a Performance Guarantee, Inspection Fee, Building Permit Application and other associated fees and permits will be required prior to construction.

Signature of Applicant: 	Date: 5-8-2020
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Development Review Checklist

City of Auburn Planning and Permitting Department
City of Lewiston Department of Planning and Code Enforcement



**THE FOLLOWING INFORMATION IS REQUIRED WHERE APPLICABLE TO BE
SUBMITTED FOR AN APPLICATION TO BE COMPLETE**

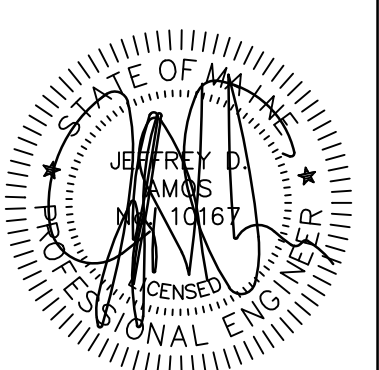
PROJECT NAME: Mystique Way Planned Unit Development

PROPOSED DEVELOPMENT ADDRESS and PARCEL #: Tax Map 206, Lot 058 Deed Book 9894, Page 73

Required Information		Check Submitted		Applicable Ordinance	
		Applicant	Staff	Lewiston	Auburn
Site Plan					
	Owner's Names/Address	x			
	Names of Development	x			
	Professionally Prepared Plan	x			
	Tax Map or Street/Parcel Number	x			
	Zoning of Property	x			
	Distance to Property Lines	x			
	Boundaries of Abutting land	x			
	Show Setbacks, Yards and Buffers	x			
	Airport Area of Influence (Auburn only)	n/a			
	Parking Space Calcs	n/a			
	Drive Openings/Locations	x			
	Subdivision Restrictions	n/a			
	Proposed Use	x			
	PB/BOA/Other Restrictions	n/a			
	Fire Department Review				
	Open Space/Lot Coverage	x			
	Lot Layout (Lewiston only)				
	Existing Building (s)				
	Existing Streets, etc.				
	Existing Driveways, etc.				
	Proposed Building(s)				
	Proposed Driveways				
Landscape Plan					
	Greenspace Requirements				
	Setbacks to Parking				
	Buffer Requirements				
	Street Tree Requirements				
	Screened Dumpsters				
	Additional Design Guidelines				
	Planting Schedule				

Required Information		Check Submitted		Applicable Ordinance	
		Applicant	Staff	Lewiston	Auburn
Site Plan					
Stormwater & Erosion Control Plan		x			
	Compliance w/ chapter 500	x			
	Show Existing Surface Drainage	x			
	Direction of Flow	x			
	Location of Catch Basins, etc.	x			
	Drainage Calculations	x			
	Erosion Control Measures	x			
	Maine Construction General Permit Bonding and Inspection Fees				
	Post-Construction Stormwater Plan	x			
	Inspection/monitoring requirements	x			
	Third Party Inspections (Lewiston only)				
Lighting Plan					
	Full cut-off fixtures	x			
	Meets Parking Lot Requirements				
Traffic Information					
	Access Management	x			
	Signage	x			
	PCE - Trips in Peak Hour	x			
	Vehicular Movements	x			
	Safety Concerns	x			
	Pedestrian Circulation	x			
	Police Traffic				
	Engineering Traffic				
Utility Plan					
	Water	x			
	Adequacy of Water Supply				
	Water main extension agreement				
	Sewer	x			
	Available city capacity				
	Electric	x			
	Natural Gas	x			
	Cable/Phone	x			
Natural Resources					
	Shoreland Zone	n/a			
	Flood Plain	n/a			
	Wetlands or Streams	x			
	Urban Impaired Stream	n/a			
	Phosphorus Check	n/a			
	Aquifer/Groundwater Protection	n/a			
	Applicable State Permits	n/a			

Required Information		Check Submitted		Applicable Ordinance	
		Applicant	Staff	Lewiston	Auburn
Site Plan					
	No Name Pond Watershed (Lewiston only)	n/a			
	Lake Auburn Watershed (Auburn only)	n/a			
	Taylor Pond Watershed (Auburn only)	n/a			
Right Title or Interest					
	Verify	x			
	Document Existing Easements, Covenants, etc.				
Technical & Financial Capacity					
	Cost Est./Financial Capacity	x			
	Performance Guarantee				
State Subdivision Law		n/a			
	Verify/Check				
	Covenants/Deed Restrictions				
	Offers of Conveyance to City				
	Association Documents				
	Location of Proposed Streets & Sidewalks				
	Proposed Lot Lines, etc.				
	Data to Determine Lots, etc.				
	Subdivision Lots/Blocks				
	Specified Dedication of Land				
Additional Subdivision Standards					
	Single-Family Cluster (Lewiston only)				
	Multi-Unit Residential Development (Lewiston only)				
	Mobile Home Parks				
	Private Commercial or Industrial Subdivisions (Lewiston only)				
	PUD (Auburn only)				
A JPEG or PDF of the proposed site plan		x			
Final sets of the approved plans shall be submitted digitally to the City, on a CD or DVD, in AutoCAD format R 14 or greater, along with PDF images of the plans for archiving					



DATE: 5/8/2020
P.E. JEFFREY D. AMOS

NO.	DATE	REVISED PER CITY COMMENTS	APPT. BY
1	4/10/2020		JDA

666 CONGRESS STREET
SUITE 201
PORTLAND, ME 04102

41 CAMPUS DRIVE
SUITE 101
NEW GLOUCESTER, ME 04260

OFFICE: (207) 926-5111
www.terradync consultants.com

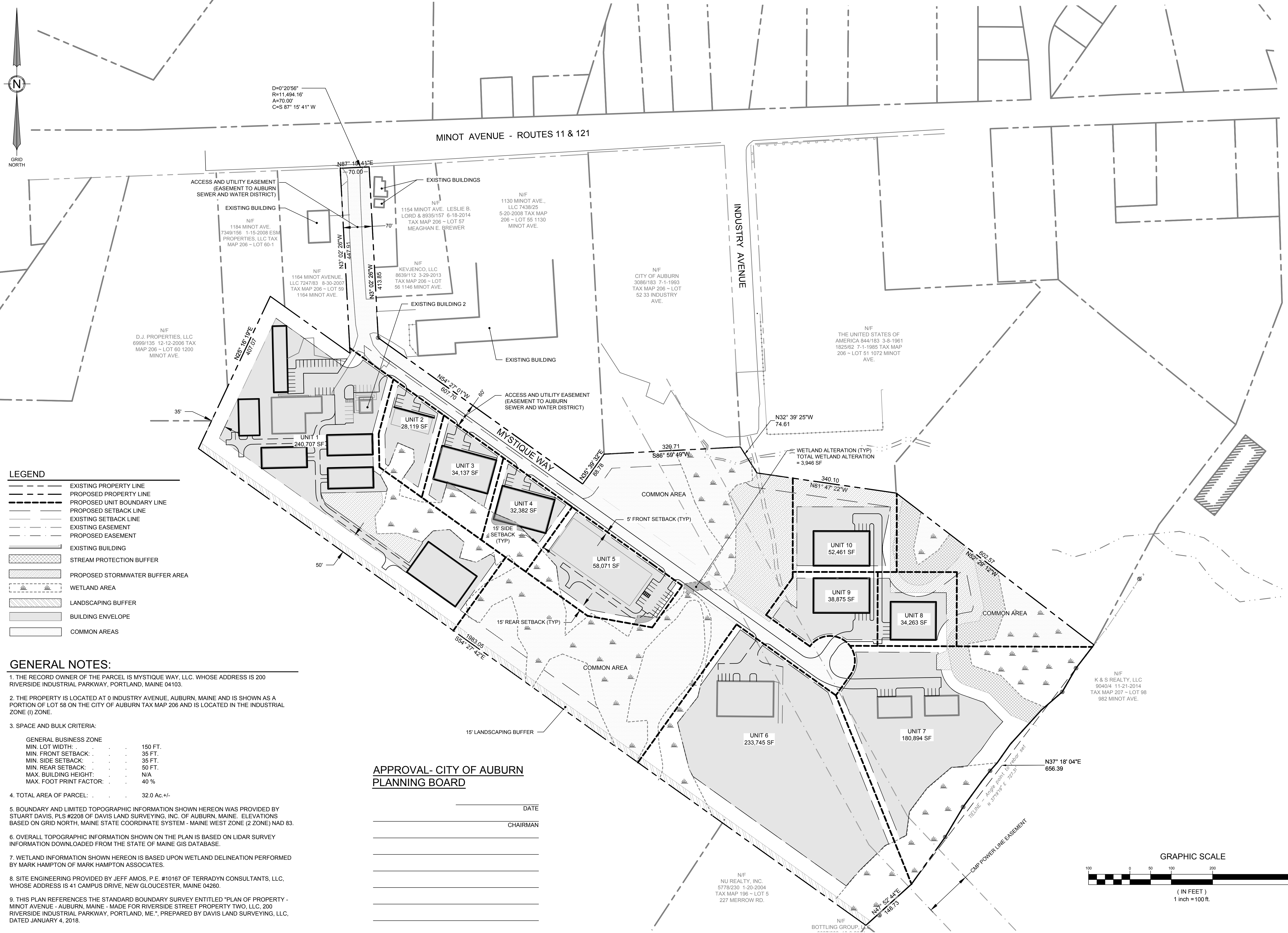
TERRADYN
CONSULTANTS, LLC

Civil Engineering - Land Planning - Stormwater Design - Environmental Permitting

SHEET DESCRIPTION
MYSTIQUE WAY DEVELOPMENT
MYSTIQUE WAY, AUBURN, MAINE
FINAL DEVELOPMENT PLAN

PREPARED FOR
MYSTIQUE WAY, LLC.
200 RIVERSIDE INDUSTRIAL PARK
PORTLAND, MAINE 04103

DATE: 5/8/2020
SCALE: 1"=100'
DESIGNED: JDA
JOB NO: 1938
FILE: 1938 B.DWG
SHEET **C-1.0**



LEGEND

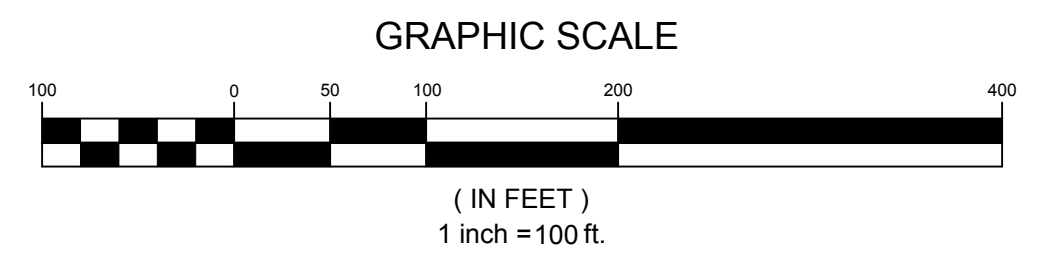
- EXISTING PROPERTY LINE
- PROPOSED PROPERTY LINE
- PROPOSED UNIT BOUNDARY LINE
- PROPOSED SETBACK LINE
- EXISTING SETBACK LINE
- EXISTING EASEMENT
- PROPOSED EASEMENT
- EXISTING BUILDING
- STREAM PROTECTION BUFFER
- PROPOSED STORMWATER BUFFER AREA
- WETLAND AREA
- LANDSCAPING BUFFER
- BUILDING ENVELOPE
- COMMON AREAS

- GENERAL NOTES:**
- THE RECORD OWNER OF THE PARCEL IS MYSTIQUE WAY, LLC. WHOSE ADDRESS IS 200 RIVERSIDE INDUSTRIAL PARKWAY, PORTLAND, MAINE 04103.
 - THE PROPERTY IS LOCATED AT 0 INDUSTRY AVENUE, AUBURN, MAINE AND IS SHOWN AS A PORTION OF LOT 58 ON THE CITY OF AUBURN TAX MAP 206 AND IS LOCATED IN THE INDUSTRIAL ZONE (I) ZONE.
 - SPACE AND BULK CRITERIA:

GENERAL BUSINESS ZONE	
MIN. LOT WIDTH:	150 FT.
MIN. FRONT SETBACK:	35 FT.
MIN. SIDE SETBACK:	35 FT.
MIN. REAR SETBACK:	50 FT.
MAX. BUILDING HEIGHT:	N/A
MAX. FOOT PRINT FACTOR:	40 %
 - TOTAL AREA OF PARCEL: 32.0 Ac +/-
 - BOUNDARY AND LIMITED TOPOGRAPHIC INFORMATION SHOWN HEREON WAS PROVIDED BY STUART DAVIS, PLS #2208 OF DAVIS LAND SURVEYING, INC. OF AUBURN, MAINE. ELEVATIONS BASED ON GRID NORTH, MAINE STATE COORDINATE SYSTEM - MAINE WEST ZONE (2 ZONE) NAD 83.
 - OVERALL TOPOGRAPHIC INFORMATION SHOWN ON THE PLAN IS BASED ON LIDAR SURVEY INFORMATION DOWNLOADED FROM THE STATE OF MAINE GIS DATABASE.
 - WETLAND INFORMATION SHOWN HEREON IS BASED UPON WETLAND DELINEATION PERFORMED BY MARK HAMPTON OF MARK HAMPTON ASSOCIATES.
 - SITE ENGINEERING PROVIDED BY JEFF AMOS, P.E. #10167 OF TERRADYN CONSULTANTS, LLC, WHOSE ADDRESS IS 41 CAMPUS DRIVE, NEW GLOUCESTER, MAINE 04260.
 - THIS PLAN REFERENCES THE STANDARD BOUNDARY SURVEY ENTITLED "PLAN OF PROPERTY - MINOT AVENUE - AUBURN, MAINE - MADE FOR RIVERSIDE STREET PROPERTY TWO, LLC, 200 RIVERSIDE INDUSTRIAL PARKWAY, PORTLAND, ME.", PREPARED BY DAVIS LAND SURVEYING, LLC, DATED JANUARY 4, 2018.

**APPROVAL- CITY OF AUBURN
PLANNING BOARD**

_____	DATE
_____	CHAIRMAN



N/F
NU REALTY, INC.
5778/230 1-20-2004
TAX MAP 196 - LOT 5
227 MERROW RD.

N/F
K & S REALTY, LLC
90404 11-21-2014
TAX MAP 207 - LOT 98
982 MINOT AVE.



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Cumberland Hall
41 Campus Drive, Suite 101
New Gloucester, ME 04260

Portland

565 Congress Street, Suite 201
Portland, ME 04101

June 1, 2020

Job Number 1938

Ms. Megan Norwood, City Planner II
City of Auburn
Planning, Permitting & Code Division
60 Court Street
Auburn, ME 04210

Additional PUD Standards - Mystique Way Development, Planned Unit Development

Dear Megan:

Please find additional information in support of the Mystique Way Planned Unit Development.

- General architectural designs of the building (could be photos of existing buildings if they're going to look similar)

The buildings will largely be greenhouses similar to the existing buildings. The existing buildings on the Mystique Way planned unit development are shown below:







- A brief description of unique project design needs that make the planned unit approach advantageous to the City and Developer

This will provide the City with additional commercial tax base in a growing economic sector. The park allows for high quality commercial grow space in an area zoned for industrial use that is far from any residential area. The City stands to benefit both from attracting cannabis businesses and also in grouping them together. The applicant benefits from being able to sell the Unit Areas to prospective buyers rather than have the entire development be commonly owned.

- An anticipated schedule of development and a conceptual phase plan where the developer intends to phase the declaration of portions of the development

The construction of Mystique Way and the underlying utility mains is already underway. It is anticipated that all shared infrastructure will be constructed during the summer of 2020. Units 6 & 7 are fully built out. Several buildings in Unit 1 are already constructed. The buildings associated with Units 2-5 & 8-10 will be constructed as buyers are found. It is anticipated that all Unit Areas will be sold by early 2021 and constructed shortly thereafter.

- Proposed agreements, provision or covenants which govern the use, maintenance and continued protection of the PUD and any of its common areas.

See attached draft condominium documents

CLOSURE

We respectfully request to meet with the Planning Board at the next available meeting.. In the interim, please contact me at (207) 926-5111 or jeff@terradynconsultants.com if you have any questions or require additional information.

Sincerely,
TERRADYN CONSULTANTS, LLC



Megan Norwood
June 1, 2020

1938

Jeff Amos, P.E

DECLARATION OF CONDOMINIUM

MYSTIQUE WAY CONDOMINIUM Mystique Way, Auburn, Maine

ARTICLE 1

SUBMISSION

Section 1.1. Submission of Property. **Mystique Way, LLC**, a Maine limited liability company with a place of business in Auburn, Maine ("**Declarant**"), owner in fee simple of the land described in **Exhibit A** annexed hereto, located within the City of Auburn, Androscoggin County, Maine (the "**Land**"), hereby submits the Land, together with all improvements, easements, rights and appurtenances thereunto belonging (the "**Property**") to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, as amended, known as the Maine Condominium Act ("**Condominium Act**" or "**Act**") and hereby creates with respect to the Property a condominium, to be known as "**Mystique Way Condominium**" (the "**Condominium**"). The Property is also shown on the following plat and plans: (i) identified as follows: "Plan of _____" dated _____ and to be recorded in the Androscoggin County Registry of Deeds (the "**Plat and Plans**").

Section 1.2. Name and Address of Condominium. The name of the Condominium shall be "Mystique Way Condominium." The address of the Condominium is Mystique Way, Auburn, Maine. The name of the unit owners association is the "**Mystique Way Condominium Association**" (the "Association") and its address is Mystique Way, Auburn, Maine.

Section 1.3. Description of Condominium Development. Initially, the Condominium consists of the Land described in the attached **Exhibit A** and consisting of ten (10) units, which are identified on the Plat. The proposed locations of Buildings and other improvements which may be erected on the Property, including Common Elements, are shown on the Plat and Plans. The proposed location and dimensions of each future Building and appurtenant Limited Common Elements are subject to change by the Declarant or, upon approval by Declarant, the Unit Owner. Any such improvements **NEED NOT BE BUILT** or may be built with configurations and locations different than those shown, as further appears in Article 10 below.

ARTICLE 2

DEFINITIONS

Section 2.1. Terms Defined in the Act. Capitalized terms are defined herein or in the Plat and Plans, otherwise they shall have the meanings specified or used in the Condominium Act. In the case of conflict between the meanings specified or used in the Act, those meanings specified or used in the Condominium Act shall control.

Section 2.2. Terms Specifically Defined in this Declaration. In addition to the terms hereinabove defined, the following terms shall have the following meanings in this Declaration, the Bylaws, and Plat and Plans:

(a) "Additional Units" means the Units, if any, which may be added by the Declarant to the Condominium in accordance with Section 10 of this Declaration.

(b) "Assessment" means the Owner's share of the anticipated Common Expenses, allocated by Percentage Interest, for the Association's fiscal year as reflected in the budget adopted by the Executive Board for such year.

(c) "Association" means the Homeowners Association of the Condominium, which is known as the **Mystique Way Condominium Association**.

(d) "Buildings" (or in the singular, a "Building") means any building erected or to be erected on the Property.

(e) "Bylaws" means the document having that name and providing for the governance of the Association, pursuant to Section 1603-106 of the Condominium Act, as such document may be amended from time to time.

(f) "Common Elements" (or in the singular, a "Common Element") means those parts of the Property other than the Units as described either in the Condominium Act as being Common Elements or described herein as being Common Elements.

(g) "Common Expenses" means expenditures made by or financial liabilities of the Association together with any allocations to reserves.

(h) "Condominium" means the Condominium described in Section 1.1 above.

(i) "Condominium Documents" means the Declaration, Plat and Plans, Bylaws and Rules and Regulations.

(j) "Declarant" means **Mystique Way, LLC**, a Maine limited liability company, its successors and assigns.

(k) "Declaration" means this document, as the same may be amended from time to time.

(l) "Development Rights" means those rights defined in Section 1601-103(11) of the Condominium Act, as it may be amended from time to time, including, but not limited to, those rights which the Declarant has reserved to itself, if any, to add real estate to the Condominium, to create Units, Common Elements or Limited Common Elements within the Condominium, to subdivide Units or, convert Units into Common Elements, or to withdraw any Real Estate, Units, or Property from the Condominium.

(m) "Eligible Mortgage Holder" means the holder of a recorded first mortgage on a Unit, or the holder of a recorded or unrecorded Land Installment Contract, which has delivered written notice to the association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefore, which notice shall state the mortgagee's name and address, the Unit Owner's name and address, and the identifying number of the Unit, and shall state that the mortgage is a recorded first mortgage. Such notice shall be deemed to have been given reasonably prior to the proposed actions described in Section 15.2 if sent at the time notice thereof is given to the Unit Owners.

(n) "Executive Board" means the Executive Board of the Association. The terms executive Board and Board of Directors shall be interchangeable.

(o) "Insurance Trust Agreement" means that certain agreement, if any, between the Association and the Insurance Trustee providing for the management and disbursement of insurance proceeds in accordance with Section 16.3 hereof.

(p) "Insurance Trustee" means the entity responsible for the management and disbursement of insurance proceeds pursuant to the Insurance Trust Agreement, if any.

(q) "Land Installment Contract" means a contract under which the Declarant or an Owner agrees to sell or otherwise convey a Unit or other real property interest in a Unit or any portion thereof to a buyer and that buyer agrees to pay the purchase price in subsequent payments and the Declarant or Owner retains title to the Unit as security for the buyer's obligation under the Contract. The Declarant or Owner may assign its rights under the Contract to any third party.

(r) "Limited Common Elements" (or in the singular, a "Limited Common Element") means those parts of the Common Elements allocated for the exclusive use of fewer than all of the Units. In the event of any discrepancy between the Condominium Act and Condominium Documents, the terms of the Condominium Documents shall control with respect to Limited Common Elements.

(s) "Limited Common Expenses" mean: (a) the Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed against the Unit(s) to which that Limited Common Element is assigned, in proportion to the relative Common Expense liabilities as between themselves, as the Executive Board may periodically define; and (b) the Common Expenses for services benefiting fewer than all the Units, which are assessed exclusively against the Units benefited in accordance with the use of such services as permitted by to Section 1603-115(c) of the Condominium Act.

(t) "Manager" or "Managing Agent" means the agent of the management company appointed by the Association to manage the Condominium or provide maintenance services.

(u) "Mortgagee" means the holder of any recorded mortgage encumbering one or more of the Units or the holder of a recorded or unrecorded Land Installment Contract.

(v) "Owner" means the record owner or owners of a Unit but does not include a person or entity having an interest in a Unit solely as security for an obligation.

(w) "Percentage Interest" means the undivided interest in the Common Elements appurtenant to a Unit, as set forth on **Exhibit B** attached hereto, as the same may be amended from time to time.

(x) "Property" means the Property described in Section 1.1 above.

(y) "Plat and Plans" means the Plat and Plans as defined in Section 1.1 above, which are recorded in the Androscoggin County Registry of Deeds, and as such may be amended and supplemented from time to time.

(z) "Record" means to record in the Androscoggin County Registry of Deeds.

(aa) "Rules and Regulations" means such rules and regulations as are promulgated by the Declarant or the Executive Board from time to time with respect to the use of all or any portion of the Property.

(bb) "Special Assessment" means an Owner's share of any assessment made by the Executive Board in addition to the Assessment.

(cc) "Special Declarant Rights" means those rights defined in Section 1601-103 (25) of the Condominium Act, as it may be amended from time to time, including, but not limited to, those rights the Declarant has reserved to itself to complete improvements, to maintain sales offices, to use easement through Common Elements for the purpose of making improvements within the Condominium, and to appoint or remove any officer of the Association during any period of Declarant control.

(dd) "Unit" means a physical portion of the Condominium created by this Declaration or any amendment thereto and designated for separate ownership or occupancy, the boundaries of which are described in Article 3.

Section 2.3. Provisions of the Condominium Act. The provisions of the Condominium Act shall apply to and govern the operation and governance of the Condominium, except to the extent that contrary provisions, not prohibited by the Act, are contained in one or more of the Condominium Documents.

ARTICLE 3

UNIT BOUNDARIES

Section 3.1. Units. Ten (10) commercial condominium units are hereby created and declared under this Declaration. Attached as **Exhibit B** hereto is a list of all Units, their identifying numbers, common element interest, common expense liability and vote appurtenant to each Unit.

Section 3.2. Unit Boundaries. The boundaries of each Unit created under this Declaration are shown on the Plat, and shall consist of:

(a) *Horizontal Boundary:* The upper and lower boundaries of each Unit are the following boundaries extended to an intersection with the vertical (perimeter) boundaries:

1. Upper Boundary: There is no upper boundary of a Unit.
2. Lower Boundary: The horizontal plane at the lower or outer surfaces of the foundation or undecorated surface of the basement concrete floor slab.

(b) *Vertical Boundaries:* The vertical boundaries of each Unit shall be the vertical planes at the outermost boundary lines of the Units as shown on the Plat, extended to the intersections with each other and with the horizontal boundaries.

(c) For avoidance of doubt, all internal structures contained within and external structures attached to the building are included in the Unit, including, without limitation, roofing framing and covering, chimneys and flues, wall framing, insulation, sheathing, clapboards, studs, joists, load bearing portions of the building, attic structural elements, foundation walls, all floor slabs, garage slab floors, and interior foundation drains.

Section 3.3. Description of the Units. Each Unit consists of the entire land area as depicted on the Plats and Plans and any Building now located or to be constructed thereon, and includes, without limitation, the following:

- (a) The foundations, roof, walls, doors, windows, gutters, chimneys, flues and all portions of the Building;
- (b) All utility lines, pipes, wires, electrical and transmission wires and conduits, sprinkler and life safety systems, distribution pipes, pumping station, and water and sewer utility lines located within the Building or mounted on its exterior walls or extending from a point of service connection from a main line or shut-off facility (excepting lines and equipment owned by public and municipal utilities);
- (c) All interior and exterior portions of the Buildings, including all structural components, flooring, floor coverings, walls and ceilings and all other materials comprising a part of the Building, whether interior or exterior; and

- (d) Plumbing, electrical, heating, ventilating and air conditioning systems and components located within the Building or servicing only the Unit, even if located outside of a Unit's boundaries as depicted on the Plat.

A Unit generally does not include utility lines running through a Unit which serve more than one Unit, which serve the Common Elements, or which serve another Unit.

ARTICLE 4

DESCRIPTION AND ALLOCATION OF COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND RESERVED COMMON ELEMENTS

Section 4.1. Description of Common Elements. Common Elements shall consist of all of the Property except the individual Units, and shall include all public and private utility lines (other than those which are contained within the Unit and serve only that Unit), and any easements as set forth in **Exhibit A** for parking, access, and utilities; and in addition, all other parts of the Property necessary and convenient to its existence, maintenance and safety, normally in common use as defined in the Condominium Act, except such parts of the Property as may be specifically excepted or reserved herein or in any exhibit attached hereto. Each Owner shall have the right to use the Common Elements in common with all other Owners, as may be required for the purposes of ingress and egress to and use, occupancy and enjoyment of the respective Owners and guests, tenants, and other authorized occupants, licensees, and visitors of the Owner. The use of the Common Elements and the rights of the Owners with respect thereto shall be subject to and governed by the provisions of the Act and Condominium Documents. Without limitation, the Common Elements shall specifically include the following:

(a) Grounds. The land, lawns, trees, any forested areas, all located outside of the Units, common signage, common mailboxes, any common facilities or storage buildings, and all private access roads and drives as shown on the Plat and Plans, subject, however to any maintenance responsibilities or other obligations on the part of the Association as referenced therein.

(b) Systems & Utilities. Sanitary sewer lines to each unit, to unit outlet. electric distribution to each unit meter, water distribution to each unit master valve, storm and unit drainage system, water lines servicing more than one unit, electrical wiring from meter and serving more than one unit.

(c) Other. All other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use, except as otherwise expressly provided.

Section 4.2. Locations of Common and Limited Common Elements. The locations of the Common Elements and Limited Common Elements are shown on the Plat and Plans.

Section 4.3. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove or improve portions of the Common Elements, including without limitation, any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so.

ARTICLE 5

MAINTENANCE RESPONSIBILITIES

Section 5.1. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and Common Elements shall be maintained and repaired by each unit Owner and by the Association in accordance with the provisions of Section 1603-107 of the Act, except as expressly set forth to the contrary herein.

Section 5.2. Maintenance and Inspection of Limited Common Elements. The maintenance, repair and replacement of Limited Common Elements created, if any, shall be the responsibility of the Association, with the cost thereof, if any, to be allocated among the Units so benefitted, except as otherwise noted in the Condominium Documents.

Section 5.3. Maintenance and Inspection of Common Elements.

(a) The Association, or the Managing Agent of the Association in accordance with Article 7, shall be responsible for the maintenance, repair and replacement (unless, if in the opinion of the Board of Directors such expense was necessitated by the negligence, misuse or neglect of a unit Owner) of all of the Common Elements whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense except as otherwise provided herein with regard to Limited Common Elements and certain Reserved Common Elements. The maintenance, repair and replacement of Common Elements located within a Unit, if any, for which the unit Owner is not responsible, to the extent required for the functioning of or for connecting utilities to the Property and Units, shall be furnished by the Association as part of the Common Expenses.

Section 5.4. Maintenance of Unit. Each unit Owner shall keep and maintain his Unit, including the building, grounds, equipment, appliances and appurtenances in good order, condition and repair and in a clean and sanitary condition, whether such maintenance and repair shall be structural or non-structural, ordinary or extraordinary, and shall do all property maintenance, which may at any time be necessary to maintain the good appearance and condition of his Unit. No unit Owner shall sweep or throw, or permit to be swept or thrown, from his Unit any dirt, debris or other substance. In addition, each unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or neglect to make any of the repairs required by this Article. Each unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other unit Owners. Each unit Owner shall promptly report to the Executive Board or the managing agent any defect or need for repairs for which the Association is responsible. No unit Owner shall change the exterior color of his or her Unit nor alter the exterior materials or structure without the written approval of the Board of Directors. All exterior maintenance shall be undertaken so as to maintain the general character and quality of the condominium. No work shall be undertaken without all necessary State and local permits and approvals, and copies of all such permits and approvals shall be given to the Association.

Section 5.6. Liability of Owner. Each unit Owner shall be liable for, and the Association shall have a lien against his Unit for, the expense of maintenance, repair or replacement of any portion of another Unit or the Common Elements, including Limited Common Elements and Reserved Common Elements, of another Unit caused by such unit Owner's act, neglect or carelessness or by that of any member of such unit Owner's family, or such unit Owner's guests, employees, agents, lessees, or their pets, and the Association shall have the right to cure, correct, maintain, repair or replace any damage or disrepair resulting from such act of neglect or carelessness. The Association shall also have the right to perform maintenance required of a unit Owner under Section 5.5, but not performed by the unit Owner, including, without limitation, services of the Managing Agent requested by the unit Owner and the unit Owner shall be liable for and the Association shall have a lien against the Unit for the expense of such maintenance. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation against such unit Owner.

ARTICLE 6

ALLOCATION OF PERCENTAGE INTERESTS, COMMON EXPENSES AND VOTING RIGHTS

Section 6.1. Percentage Interests. Attached hereto as **Exhibit B** is a list of Units by their identifying number and the Percentage Interest appurtenant to each Unit, for all Units created as of the time of the recording of this Declaration together with an explanation of the formula by which such Percentage Interest is determined. Upon the creation of additional Units, this Declaration and **Exhibit B** shall be amended to include the Units then existing in the Condominium, their identifying numbers, phase numbers, common element interest, common expense liability and vote appurtenant to each Unit.

Section 6.2. Common Expenses. The liability of each Built Unit for the Common Expenses of the Condominium shall be the same percentage share as the Percentage Interest set forth on **Exhibit B**, and as such shall be determined by the same formula by which the Percentage Interest is determined. All Utilities that are not separately metered or billed to a Unit shall be treated as part of the Common Expenses; provided however, that the Declarant or the Association shall have the right to separately meter or submeter any or all utilities used by each Unit and to allocate expenses as Common Expenses or Limited Common Expenses, as the case may be.

Section 6.3. Allocation of Owners' Voting Rights. Each Owner of a Unit shall be entitled to vote as described on **Exhibit B**. If a Unit is owned by more than one person or entity, the voting interest shall not be divided and the vote for the Unit shall be cast by only one of the Owners as determined by a majority of the Owners of such Unit.

ARTICLE 7

MANAGEMENT

Section 7.1. Managing Agent. The Association shall have the obligation to employ a professional experienced property management firm to provide property maintenance services to individual Unit Owners at their request and/or to the Association, and the right to employ the same firm or another professional experienced property management firm to oversee the daily operation of the Condominium in accordance with the provisions of the Act and the Declaration (either or both firms, a “Managing Agent”); provided, however, that no agreement for such professional services may exceed a term of three (3) years but may be renewed upon consent of the Association. Such agreement(s) shall be cancelable by either party without cause and without a termination fee upon not less than sixty (60) days nor more than ninety (90) days written notice and shall be cancelable by the Executive Board with cause upon not less than thirty (30) days written notice. Any agreement for professional management negotiated by the Declarant shall meet the requirements of this Article 7 for such agreements negotiated by the Association and shall not exceed one (1) year, but may be renewed upon consent of the Association.

Section 7.2. Maintenance Responsibilities. A Managing Agent, or the Association through the Executive Board in the absence of a Managing Agent, shall be responsible for maintenance, repair and replacement of the Common Elements and Common Property including, but not limited to, the Limited Common Elements. The cost of the provision of such services shall be a Common Expense. The Managing Agent performing property maintenance services shall be required by contract to make itself available to provide services for individual Unit Owners upon request for any maintenance responsibilities of the individual Unit Owner, to be payable through the Association by assessment upon the Unit Owner receiving such services.

ARTICLE 8

EASEMENTS

Section 8.1. Additional Easements. In addition to the easements provided for by the Act, the following easements are hereby created:

(a) All Units shall be subject to an easement in favor of the Declarant pursuant to Section 1602-115 of the Condominium Act. The Declarant reserves the right to use any Units owned or leased by the Declarant and any Common Element as models, management offices, sales offices for this and other projects or customer service offices; and the Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Prior to assignment as Limited Common Elements, the Declarant shall have the right to restrict the use of certain Common Element parking areas for sales purposes and to use such areas for sales purposes. Further, the Declarant shall have the right to erect temporary offices on any Common Element parking areas for models, sales, management,

customer service and similar purposes. This easement shall continue until the Declarant has conveyed all Units in the Condominium to Owners other than the Declarant.

(b) The Units and Common Elements (including Reserved Common Elements) shall be, and hereby are, made subject to easements in favor of the Declarant, other Owners, appropriate utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created by this Section 8.1(b) shall include, without limitation, rights of the Declarant, any Owner or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, drainage ditches and pump stations, telephone wires and equipment, television equipment and facilities (cable or otherwise), electrical wires, conduits, and equipment and ducts and vents over, under, through along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 8.1(b), any such easement through a Unit shall be located either in or substantially in the same location as such facilities or similar facilities existed at the time of first conveyance of a Unit by the Declarant or so as not to materially or unreasonably interfere with the use, occupancy, or quiet enjoyment of the Unit by its occupants. With respect to any utility lines or equipment serving only the Condominium and located upon the Common Elements, the Executive Board shall have the right and power to dedicate and convey title to the same to any private or public utility company. The Executive Board shall also have the right and power to convey permits, licenses and easements over the Common Elements for the installation, maintenance, repair and replacement of utility poles, lines, wires and other equipment to any private or public utility company. In addition, the Executive Board shall have the right to grant permits, licenses and easements over the Common Elements for the building and, maintenance of roads, for the protection of the natural, scenic and open space values of the Property, and for other purposes necessary for the proper operation the Condominium.

(c) The Declarant reserves for as long as it is entitled to exercise any Development Right an easement on, over and under those portions of the Common Elements not located within a Building for the purpose of maintaining and/or correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The easement created by this Section 8.1(c) expressly includes the right to cut any trees, bushes, or shrubbery, to grade the soil, or to take any other action reasonably determined to be necessary. The Declarant or the Association, as the case may be, shall restore the affected property as closely to its original condition as is practicable.

(d) The Common Elements (other than the Limited Common Elements and Reserved Common Elements) shall be, and hereby are made, subject to an easement in favor of the Owners and their invitees, employees, tenants and servants, the Association and the agents and employees of the Association for access, egress and ingress over, through and across each portion thereof, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe; provided that nothing contained herein shall create any access easement in favor of Owners with respect to such portions of the Common Elements which are not needed in order to gain access to one or more Units and as to which the Executive Board may from time to time determine it to be necessary or desirable to limit or control access by Owners or the occupants of Units, or both, including, by way of illustration and not limitation,

machinery and equipment rooms, and any management agent's office, provided, however, that every Owner shall have an unrestricted right of ingress and egress to his Unit for his specified Period of Use. Until the Declarant conveys the last Unit to an Owner other than Declarant, the Declarant shall have the right to restrict access by owners to management and sales offices and areas located on or in any Common Element.

(e) The Common Elements (including, but not limited to, the Limited Common Elements and Reserved Common Elements) and Units are subject to an easement in favor of the Declarant for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements.

(f) The Common Elements (including, but not limited to, the Limited Common Elements and Reserved Common Elements) shall be and hereby are made subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of the inspection, upkeep, maintenance, repair and replacement of the Common Elements, and Property (including, but not limited to the Limited Common Elements and Property and Reserved Common Elements and Property).

(g) The Common Elements (including, but not limited to, the Limited Common Elements) shall be and hereby are made subject to the following easements in favor of the Units benefited for the installation, repair, maintenance, use, removal and/or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone and other communication wiring and cables and all other utility lines and conduits which are part of or exclusively serve a single Unit and which pass across or through a portion of the Common Elements;

(h) To the extent necessary, every Unit shall have an easement for structural support over the Common Elements, and every Unit and the Common Elements shall be subject to an easement for structural support in favor of every Unit. The Units, Reserved Common Elements and the Limited Common Elements are hereby made subject to the following easements:

(1) In favor of the Association and its agents, employees and independent contractors, (i) for inspection of the Units, Reserved Common Elements and Limited Common Elements in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible, (ii) for inspection, maintenance, repair and replacement of the Common Elements and Property or the Limited Common Elements and Property situated in or accessible from such Units or Limited Common Elements or both, (iii) for correction of emergency conditions in one or more Units, Reserved Common Elements or Limited Common Elements, or any of them, or casualties to the Common Elements and Property, the Limited Common Elements and Property, the Reserved Common Elements and Property and/or the Units, and (iv) to do any other work reasonably necessary for the proper maintenance of the Condominium, it being understood and agreed that the Association and its agents, employees and independent contractors shall take reasonable steps to minimize any interference with an Owner's use of his Unit resulting from the Association's exercise of any rights it may have pursuant to this Section 8.1(i)(1) and the following Section 8.1(i)(2) or both;

(2) In favor of the Owner benefited thereby and the Association and its agents, employees and independent contractors, for the installation, repair, maintenance, use, removal

and/or replacement of pipes, ducts, electrical, telephone, telegraph or other communication systems and all other utility lines and conduits which are part of the Common Elements and which pass across or through a portion of one or more Units or Reserved Common Elements.

(i) If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Condominium results either in the Common Elements encroaching on any Unit, or in any Unit encroaching on the Common Elements or on any other Unit, a valid easement shall exist during the period of the encroachment for the encroachment and for the maintenance thereof.

(j) All easements, rights and restrictions described and mentioned in this Declaration are easements appurtenant, running with the land and the Property, including by way of illustration but not limitation the Units and the Common Elements, and (except as expressly may be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

Section 8.2. Reservation of Easement Rights. Until the construction, marketing and sale of all Units is completed, the Declarant reserves the right to grant to any third party any license or easement in, on, over or through the Property, in addition to and not in limitation of those set forth above, which license or easement is determined by the Declarant, in its reasonable judgment, to be necessary for the development or improvement of the Property. Any such license or easement granted hereunder may be recorded by the Declarant at its sole cost and expense. The Association, at the request of the Declarant, shall execute and deliver in recordable form any instrument or document necessary or appropriate to confirm the grant of such license or easement.

Section 8.3. Additional Easements, Covenants, Restrictions, DEP Order. The Property is also subject to any easements and restrictions set forth on the attached **Exhibit A** and as shown on the Plat and Plans, and is further subject to the following:

(a) Subdivision Plan and City Approvals. Terms and conditions of the Subdivision Plan, and the terms and conditions of any related subdivision or site plan permits or approvals granted by the City of Auburn (the “**City**”), as evidenced by said Subdivision Plan (collectively the “**City Approvals**”), whether or not such terms and conditions are noted or referenced on the Plan or in any other instrument recorded in the Androscoggin County Registry of Deeds.

ARTICLE 9

RESTRICTIONS ON USE, SALE AND LEASE OF UNITS AND/OR UNITS

Section 9.1. Each Unit shall be occupied and used subject to the following restrictions:

(a) *Commercial Use.* Units may only be used for uses permitted in the City of Auburn’s Industrial Zone. No Unit shall be used or occupied for residential purposes. Provided however that nothing in this Declaration or the Bylaws shall

be construed to prohibit the Declarant from exercising any easements and Special Declarant Rights reserved by the Declarant, including without limitation promotional, marketing or display purposes, sales of Units and for customer service purposes, or from leasing Units owned by Declarant as provided in this Declaration.

(b) *Insurance.* No activities shall be carried on or materials used or kept in any Unit or any in the Common Elements will increase the rate of insurance for the balance of the Property, or any part thereof, without the prior written consent of the Board of Directors. No Unit owner shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the property, or any part thereof, or which would be in violation of any law, regulation or administrative ruling. No waste may be committed on or to the Common Elements.

(c) *Nuisance/Hazard/Interference, Etc.* No Unit shall be used so as to create a nuisance or an unreasonable interference with the peaceful possession or proper use of any other Unit or the Common Elements. No owner or occupant of any Unit or Limited Common Element shall carry on, or permit to be carried on, any activity which is unlawful, which violates any statute, rule, ordinance or regulation or which unreasonably interferes with the quiet enjoyment and proper use of the Property, or which creates or results in a hazard on the Property. No noise, smells, discharges, smoke or other emissions outside of the boundaries of a Unit shall be permitted which would materially interfere with or disturb the use and enjoyment of other Units.

(d) *Pets and Animals.* No pets and animals shall be permitted outside of a Unit except on a leash attended by a responsible person. Pet owners shall clean up the droppings left by their pets.

(e) *Trash and Garbage.* Each Unit owner shall be responsible for the costs of its trash and garbage removal, but the Association may elect to provide a common dumpster and pass the expense through as a Service Charge.

(f) *Hazardous Materials.* Each Unit owner covenants and agrees that, with respect to any hazardous, toxic or special wastes, materials or substances including without limitation asbestos, waste oil and petroleum products, other than normal office products and substances such as copier and printer toner, and the like (the "Hazardous Materials") which the owner, its tenants, agent or employees may use, handle, store or generate in the conduct of its business at the Property, the Unit owner:

- I. Will comply with all applicable laws, ordinances and regulations which relate to the treatment, storage, transportation and handling of the Hazardous Materials

- II. Will in no event permit or cause any disposal of Hazardous Materials in or on the Common Elements or Limited Common Elements and in particular will not deposit any Hazardous Materials in or on the floor or in any drainage system or in the Association provided trash containers.
- III. Shall, with respect to any off-site disposal, shipment, storage, recycling or transportation of any Hazardous Materials, properly package the Hazardous Materials and shall cause to be executed and duly filed with the appropriate agencies all necessary forms and documentation, and the Unit owner shall retain all records required by all federal, state or local laws.
- IV. Will at all reasonable times permit the Association or its agent or employees to enter the Unit to inspect the same for compliance with the terms of this Section and will further provide upon thirty (30) days notice from the Association copies of all records which the Unit owner may be obligated to obtain and keep in accordance with the terms of this Section.
- V. Will at its expense remove all Hazardous Materials introduced by the Unit owner from the Premises and comply with applicable Maine and federal law applicable to the Unit owner as the same may be amended from time to time.
- VI. Further agrees to maintain the Common Elements and Limited Common Elements free of all pollutants, contaminants, special wastes, underground storage tanks, asbestos and waste oil petroleum and any other hazardous, pathological, radioactive, dangerous or toxic substances, materials or wastes introduced by the Unit owner. The terms used in this paragraph shall include, without limitation, all substances, materials, etc., designated by such terms under any laws, ordinances or regulations, whether federal, state or local.
- VII. The Unit owner further agrees to (a) hold harmless and (b) indemnify the Association and all other Unit owners for and against any and all claims, loss, injury, harm, costs, damages and expenses, including reasonable attorney's fees, which may arise in the event that the Unit owner breaches any of the provisions contained in this Subsection

(g) *Outside Storage.* No articles of personal property shall be stored in any portion of the Common Elements or Limited Common Elements.

(h) *Utility System.* No Unit owner shall overload the electrical, water, sewage and surface water disposal system servicing the Property. No Unit owner shall operate any machinery, appliances, accessories or equipment in such a manner as to cause, in the judgment of the Board of Directors, as appropriate, an unreasonable disturbance or make any alterations, repairs or modifications to or connection with the Common Element electrical, sewage, storm water plumbing systems other than in accordance with plans approved under the Design Review Process set forth above.

(i) *Governmental Requirements.* All Unit owners, their tenants, visitors, guests and invitees shall comply with and conform to all applicable laws and regulations

of the State of Maine, and all ordinances, rules and regulations of the City of Auburn. The violating Unit owner shall hold the Association and other Unit owners harmless from all fines, penalties, costs and prosecutions for the violation thereof or noncompliance therewith.

Section 9.2. Use of Common Elements. Subject to this Declaration, the Bylaws or by the Rules and Regulations adopted from time to time by Board of Directors pursuant to its powers, each Unit owner, occupant, tenant, guest, visitor and invitee may use the Common Element in common with all other Unit owners and their occupants, tenants, guests, visitors and invitees, in accordance with the commercial office purposes for which they are intended, without hindering or encroaching upon the lawful rights of the other Unit owners, upon the following terms:

(a) *Motor Vehicles and Parking.* All vehicles, trucks and trailers may be parked or kept only in the portions of the Limited Common Elements separately allocated to each Unit, or in such areas of the Common Elements designated by the Board of Directors of the Association, and such vehicles must be in operable condition and fully licensed for operation on public highways. No inoperable vehicles, boats, recreational vehicles, snowmobiles, terrain vehicles or other vehicles or recreational equipment or similar items may be kept or parked on the Property except within a fully enclosed building forming a part of the Unit. No motorized vehicles shall be used on the Property, except within the parking areas and on the streets as shown on the Condominium Plat. No unattended vehicle shall be left in such a manner as to impede the passage of traffic or to impair access to driveway or parking areas. The Board of Directors may adopt such Rules and Regulations as it deems necessary or appropriate to further regulate parking.

(b) *Exterior Alterations.* Unit owners shall not alter the exterior of their Unit or the Limited Common Elements, erect signs, erect antennas, dishes, wires, cables, fences, signs, canopies, clotheslines or other structures, plant, trim, cut or remove trees or shrubs, materially alter the grading or landscaping, or do any other thing which affects the appearance of the exterior of the Building or grounds, including Limited Common Elements, except as permitted under the Design Review Process set forth below.

(c) *Signs.* Free standing signs may be erected in the designated portion of the Limited Common Element for each Unit as permitted by the Rules and Regulations and as approved by the City of Auburn. The Board of Directors may also erect a publicly displayed, adequately-sized, directional and identifying sign(s) declaring the name and location of each occupant of the Units, and may erect and maintain a common sign at the entrance(s) to the Property in accordance with such Rules and Regulations as it may establish from time to time.

(d) *Obstruction/Storage.* No Unit owner shall obstruct any of the Common Elements nor shall any Unit owner place or store anything on any of the Common Elements (except those areas designated for parking by the Condominium Documents or the Board of Directors) without the approval of the Board of Directors.

(e) *Maintenance.* Parking lots shall be swept each spring as part of storm water

management. The storm water, catch basin, road and parking area, snow plowing, lawn care and city required landscaping shall be provided by the Association as a common expense.

(f) *Lighting.* Each Unit shall provide and maintain exterior common area lighting utilizing a free standing light pole conforming to the City of Auburn's requirements.

(g) *Responsibility.* Neither the Board of Directors, the Association, any Unit owner, nor the Declarant shall be considered a bailee of any personal property stored on the Common Elements (including vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to a Unit owner for storage or parking purposes. None of them shall be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

Section 9.3. Sale and Lease of Units.

(a) The Declarant shall have the right to operate any Units owned by the Declarant as a rental project. The Declarant may establish and maintain in the Units and Common Elements, all offices, signs and other accoutrements normally used in the operation of, such rental properties in the sole discretion of the Declarant. Such operation shall be for the benefit of the Declarant and neither the Association nor any Owner (other than the Declarant) shall have any right or interest in the profits or losses thereof.

(b) There shall be no rental program offered to the Owners by Declarant, Managing Agent or any third parties. Subject to the approval of the Executive Board, an Owner other than the Declarant may rent his or her Unit in accordance with a written lease agreement. The Executive Board may prescribe by resolution a form of lease or specific provisions to be included in any lease of a Unit owned by a party other than the Declarant, and thereafter no Owner other than the Declarant shall execute a lease of his or her Unit which is not in compliance with such resolution. Each tenant and lease shall be subject to the covenants, restrictions and conditions set forth in the Declaration and all other Condominium Documents, including without limitation the enforcement rights reserved to the Executive Board pursuant to Section 12.3 herein.

(c) This Section 9.2. shall not be deemed or construed to impair a Mortgagee's right to foreclose, accept a deed in lieu of foreclosure or sell or lease a Unit so acquired by the Mortgagee.

Section 9.4. Time Share Ownership Prohibited. No ownership interest in any Unit shall or may be subdivided to permit "time sharing" or any other devices to effect interval ownership. For the purposes of this subsection, such devices shall be deemed to include, without limitation, the use of corporations, partnerships and tenancies in common in which four or more persons not members of a single household have acquired by means other than inheritance, devise or operation of law, a direct or indirect, equitable or legal, right to occupy or arrangement, formal or informal regarding occupancy of the same unit.

ARTICLE 10

DECLARANT'S RIGHTS, SPECIAL DECLARANT RIGHTS, PHASING AND DESIGN RESTRICTIONS

Section 10.1. Development Rights. The Declarant reserves the following rights:

- (a) To locate in the Common Elements of the Property, even though not depicted on the Plat and Plans, and grant and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of public utility lines, wires, pipes, conduits and facilities servicing the property including, but not limited to, water, electric, telephone, cable television, fuel, sewer, and surface and subsurface drainage, provided however that no such easement shall be effective until of record, that no such easements may be granted through Units sold by Declarant to third parties and that the Common Elements shall be promptly restored upon installation and repair;
- (b) To connect with and make use of utility lines, wires, pipes and conduits located on the Property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of services so used;
- (c) To use the Common Elements for ingress and egress, for the construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units or Common Elements including without limitation the movement and temporary storage of construction materials and equipment, the right of vehicular and pedestrian access, the right to park motor vehicles, and for the installation of signs and lighting for sales and promotional purposes, but excluding from the exercise of such rights any Limited Common Elements appurtenant to a Unit owned by a third party;
- (d) Until the construction, marketing and sale of all Units is completed, including any future Units which may be created hereunder, to operate and relocate construction, sales, leasing and management offices; permit prospective tenants, purchasers, lenders, appraisers, and others to visit the offices and use the Common Elements and use unsold Units for construction, sales, leasing and display purposes;
- (e) Until the construction, marketing and sale of all Units is completed, including any future Units which may be created under this Declaration, to subdivide or convert Units into Common Elements, to add additional land to the Condominium, and any and all other Development Rights as are now allowed or in the future may be allowed by the Condominium Act.
- (f) Appoint and remove members of the Board of Directors and Officers of the Association in accordance with Section 12.1 of this Declaration;
- (g) To allocate parking spaces by an instrument duly recorded in the Registry of Deeds, but no such allocation shall be effective until recorded;

(h) Until the expiration of any applicable warranty established by law or agreement, the Declarant, its contractors, agents and employees shall have the right of entry into a Unit to perform warranty-related work, whether for the benefit of than Unit or any other Unit;

(i) Those rights established elsewhere within the Declaration; and,

(j) Those rights established under the Condominium Act.

Section 10.2. Assignment or Transfer of Declarant Rights. All or any part of the rights, powers or reservations of Declarant contained in this Declaration may be assigned by Declarant from time to time, in whole or part, to any person or entity which will then assume the duties and obligations of Declarant related to the rights, powers or reservations assigned. Upon the recording of a document in said Registry of Deeds by which Declarant assigns any of such rights, powers or reservations and by which the assignee assumes the duties and obligations of Declarant related to the rights, powers or reservations assigned, the assignee shall become a successor Declarant as to such rights, powers or reservations assigned and shall have the same rights and powers and be subject to the same duties and obligations with respect to the rights, powers or reservations assigned as are given to and assumed by Declarant herein, and Declarant shall be relieved from all liability with respect to the rights, powers, reservations, duties and obligations hereunder which are assumed by the assignee.

Section 10.3. Design Restrictions and Approvals.

A. Declarant's Approval. Declarant has the right to approve the location and design of all initial and subsequent Buildings, all other structures constructed on the Common Elements and Limited Common Elements, to ensure that such buildings and structures comply with the design and location standards set forth herein, which approval shall not be unreasonably be withheld. Prior to commencing any construction, renovation or revision of any Building, improvements or structure of any kind or description, the following items shall be submitted for approval in writing by Declarant, including:

- I. A site plan showing the location of the structures, including without limitation loading docks, parking, paving, curbing, lighting, signage, dumpster, and landscaping and any proposed changes to grades.
- II. proposed uses, and parking calculations demonstrating that the City of Auburn's parking requirements and other requirements are satisfied; and
- III. Exterior plans for the structures showing elevations from each side.

Such plans and submissions shall be deemed to be approved unless Declarant objects within thirty (30) days after submission of such plans by Owner to the Declarant by certified mail, return receipt requested, accompanied by a specific request for approval under these standards. Declarant's design review and approval rights under this Section shall be transferred to the Condominium Association once all potential Units have been legally created by the Declarant and transferred to third parties. Such approvals shall be

received prior to making any submissions to the Association or the City of Auburn; any revisions required by such entities shall require re-approval hereunder.

Structures within each Unit and Limited Common Elements shall be constructed only in conformity with such approved plans. Approval by the Declarant shall not relieve the Owner from compliance with any review or permit requirement under applicable law, regulations and ordinances. Neither the Declarant nor the Association shall be liable to any Owner for damages related to Declarant's approval or rejection of such plans.

B. Town/State Approval. In addition, all buildings, improvements or structures of any kind or description shall comply with the requirements of the City of Auburn and State of Maine, including without limitation any required site plan approval, building and life safety codes.

C. General. Each Unit Owner shall construct and maintain in an attractive condition all parking, lighting, landscaping and lawn areas within the Unit.

Without limiting the provisions of the foregoing restrictions:

- I. No building will be covered with exposed tar paper or asphalt siding.
- II. Buildings may only be located within the Footprint Area depicted on the Plat and shall not exceed the maximum square footage listed on the Plat unless approved by the City of Auburn and by the Declarant under these standards.
- III. All construction shall follow good erosion control practices and the requirements of the City of Auburn.
- IV. Once construction of the buildings and improvements has commenced, work thereon must be prosecuted diligently. All exterior siding, finish trim, landscaping, grading, seeding, driveway and other exterior work must be completed with due diligence and continuity within a reasonable time, not to exceed one (1) year from the start of excavation and construction. No building shall be occupied without an occupancy permit from the City of Auburn.
- V. Any structure on a Unit which is destroyed or damaged in whole or in part by fire, windstorm or other casualty must be rebuilt or all debris removed and the affected portion of the property restored to its natural condition with due diligence and continuity of effort within a reasonable time, but in any event not to exceed two (2) years.

Section 10.4. Exercise of Rights. The exercise of the Development Rights and Special Declarant Rights reserved herein shall be in accordance with and governed by the provisions of the Act, including without limitation Section 1602-110 of the Act. A copy of all amendments to this Declaration prepared by Declarant shall be forwarded to Eligible Mortgage Holders upon request. Further, in accordance with Section 1602-109(f) of the Condominium Act, the Declarant will either record new Plat and Plans or record an affidavit that the Plat and Plans previously recorded conform to the requirements of the Act. Said amendment shall become effective upon recording without the consent of any other person.

Section 10.5. Amendment, Waiver, Etc. This Article 10 shall not be amended without the

written consent of the Declarant duly recorded in the Cumberland County Registry of Deeds. The rights and benefits of Section 10 and all other rights of Declarant set forth in this Declaration, the Bylaws or otherwise, as amended from time to time, may be transferred in whole or part by recorded instrument specifically referring to this Section and executed by Declarant and its successor or assignee. The Declarant shall have the right to waive the Development and Special Declarant Rights reserved hereunder in whole or part by an written instrument provided that such waiver shall only be effective upon recording in said Registry of Deeds and such waiver shall be subject to the limitations of Section 1603-103(d) of the Act regarding Declarant Control of the Association.

ARTICLE 11

UNITS SUBJECT TO CONDOMINIUM DOCUMENTS, EMINENT DOMAIN

Section 11.1. Applicability of Condominium Documents. Each present and future Owner, tenant, occupant and Mortgagee of a Unit therein shall be subject to and shall comply with the provisions of the Act, and with the covenants, conditions and restrictions as set forth in the Condominium Documents and the deed to such Unit; provided that nothing contained herein shall impose upon any tenant of a Unit or Mortgagee any obligation which the Act or one or more of such documents, or both, make applicable only to Owners (including, without limitation, the obligation to pay assessments for Common Expenses). The acceptance of a deed or mortgage to any Unit therein, or the entering into of a lease or the entering into occupancy of any Unit therein shall constitute an agreement that the provisions of the Act and the covenants, conditions and restrictions set forth in the Condominium Documents and the deed to such Unit therein are accepted and ratified by such grantee, Mortgagee or tenant. All of such provisions shall 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 recited and stipulated at length in each and every deed, conveyance, mortgage, contract or lease thereof. The Association and any aggrieved Owner shall have a right of action against Owners who fail to comply with the provisions of the Condominium Documents, the Act, or with decisions made by the Association or the Executive Board. Aggrieved Owners shall have similar rights of action against the Association.

Section 11.2. Eminent Domain. Whenever all or part of the Common Elements shall be taken, injured or destroyed by eminent domain, each Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, provided, however, that the Association shall officially, represent the Owners in such proceedings. In any proceedings for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Owner's interest therein and any award for such damages shall be payable to the Association for the benefit of the Owners and Mortgagees. Notwithstanding the foregoing, if the Association elects to distribute such award of damages to the Owners, any amount payable to an Owner shall be paid instead to the Owner's Mortgagee upon the written request of such Mortgagee to an officer of the Executive Board.

ARTICLE 12

EXECUTIVE BOARD OF THE ASSOCIATION

Section 12.1. Members.

(a) The Executive Board shall consist of a minimum of three (3) members and a maximum of seven (7) members. The initial Executive Board shall consist of three (3) members, all appointed by the Declarant. The members of the initial Executive Board shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations. The Declarant-appointed members of the Executive Board, which may include the Declarant, shall be replaced with Owners in accordance with the provisions of paragraph (b) of this Section 12.1.

(b) Not later than the earlier of (i) sixty (60) days after the conveyance of 75% of the all of the Units in both Phases that may be created hereunder to Owners other than the Declarant, as such percentage is calculated in accordance with Section 1603-103(f) of the Act or (ii) seven (7) years following conveyance of the first Unit to an Owner other than the Declarant (the “**Period of Declarant Control**”), all members of the Executive Board appointed by the Declarant shall resign and the Owners (including the Declarant to the extent of any Units owned by the Declarant at that time) shall elect new members of the Executive Board in accordance with the Bylaws.

(c) The Executive Board shall have the authority to change the number of Directors and shall possess all of the duties; and powers granted to the Executive Board by the Act.

Section 12.2. Disputes. (a) Regarding Owners, Condominium, and Condominium Documents. In the event of any dispute or disagreement between any Owners relating to the Property, or any questions of interpretation or application of the provisions of the Condominium Documents, the determination thereof by the Executive Board shall be final and binding on each and all such Owners. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Section 12.2. All costs of obtaining such a judgment shall be borne by the disputants, or in the absence of disputants, by the Association as a Common Expense.

(b) Disputes with Declarant. In any dispute between one or more unit Owners and the Declarant regarding the Common Elements, the Board of Directors shall act for the unit Owners, and any agreement with respect thereto by the Board shall be conclusive and binding upon the unit owners. All claims, disputes and other matters in question between the Declarant, on the one hand, and the Association or any unit owners on the other hand, arising out of or relating to, a unit, the common elements, the limited common elements, this Declaration, the Bylaws, or the deed to any unit or the breach thereof, or the course of dealing between any unit owner, the Association and the Declarant, except for claims which have been waived by the acceptance of a deed, shall be decided by binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining unless the parties mutually agree otherwise in writing. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and

judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Notice of the demand for arbitration shall be filed in writing with the other parties and with the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations or other principals of law and equity.

Section 12.3. Abating and Enjoining Violations by Owners. The violation of any Rules and Regulations adopted by the Executive Board, the breach of any provision contained in the Bylaws or the breach of any provision of this Declaration or the Act by any Owner or tenant of such Owner, shall give the Executive Board the right, in addition to any other rights to which it may be entitled, to enjoin, abate or remedy by appropriate legal proceedings, either by law or equity, the continuance of any such breach.

ARTICLE 13

LIMITATION OF LIABILITY

Section 13.1. Limited Liability of the Executive Board. The Executive Board and its members in their capacity as members, officers and employees:

(a) Shall not be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or the Executive Board;

(b) Shall not be liable to the Owners or any mortgagees as a result of the performance of the Executive Board members' duties for any mistakes of judgment, negligence or otherwise, except for the Executive Board members' own willful misconduct or gross negligence;

(c) Shall have no personal liability in contract to an Owner, any mortgagee, or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties;

(d) Shall not be liable to an Owner, or such Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by such Owner or his tenants, employees, agents, customers or guests in a Unit, or in or on the Common Elements or Limited Common Elements, except for the Executive Board members' own willful misconduct or gross negligence;

(e) Shall have no personal liability in tort to an Owner, any mortgagee, or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the

Executive Board members' own willful misconduct or gross negligence in the performance of their duties; and

(f) Shall have no personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of their performance of their duties, except for the Executive Board members' own willful misconduct or gross negligence.

Section 13.2. Indemnification. Each member of the Executive Board in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties or any other standard imposed by the Condominium Act; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association. The indemnification by the Owners set forth in this Section 13.2 shall be paid by the Association on behalf of the Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Owners or otherwise.

Section 13.3. Joint and Several Liability of Owners and Lessees. Each Owner shall be jointly and severally liable with any tenants of the Unit owned by such Owner for all liabilities arising out of the ownership, occupancy, use, misuse, or condition of any Unit or any portion of the Common Elements or Limited Common Elements.

Section 13.4. Defense of Claims. Complaints filed in any State or Federal court brought against the Association, the Executive Board or the officers, employees or agents thereof their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Owners and the holders of any mortgages and such complaints shall be defended by the Association. The Owners and the holders of mortgages shall have no right to participate other than through the Association in such defense. Complaints of a nature specified in Section 13.3 hereof against one or more but less than all Owners shall be defended by such Owners who are defendants themselves and such Owners shall promptly give written notice of the institution of any such suit to the association and to the holders of any mortgages encumbering such Units.

ARTICLE 14

ASSESSMENTS: LIABILITY OF OWNERS

Section 14.1. Power to Assess. The Association, acting through the Executive Board in accordance with the Bylaws, shall have the power to fix and determine, from time to time, the sums necessary and adequate to provide for the Common Expenses, including, but not limited to such amounts as are necessary for the maintenance, repair and replacement of the Common Elements, Limited Common Elements and Reserved Common Elements as set forth in Section 7.2 hereof, such amounts as are necessary for uncollectible Assessments or Reserved Common Element Area license fee or maintenance expenses otherwise the responsibility of a Unit Owner; budget deficits; such expenses as are necessary for the Association's share of any Common Expenses for any master association which the Association may now or hereafter be a member of; such reserves as are hereinafter described and such additional reserves as the Executive Board shall deem necessary or prudent, and such other expenses as are specifically provided for in the Condominium Act, this Declaration or the Bylaws. The Association shall establish an adequate reserve fund for maintenance, repair and replacement of all of those Elements and Property for which the Association is responsible which are anticipated to require replacement, repair or maintenance on a periodic basis, and to cover any deductible amount for insurance policies maintained by the Association. The reserve fund shall be funded as a part of the Common Expenses.

Section 14.2. Assessments for Limited Common Expenses. The Association, acting through the Executive Board in accordance with Section 1603-115(c) of the Act and the Bylaws and as circumstances may reasonably require, shall assess Common Expenses and Limited Common Expenses as follows: (i) If a Limited Common Expense or Common Expense only benefits a single Unit (e.g. fees and charges of the Managing Agent for services performed for an individual Unit Owner at its request), that Limited Common Expense or Common Expense may be assessed solely against the Unit benefited; and (ii) If a Limited Common Expense benefits more than a single Unit but fewer than all the Units, that Limited Common Expense may be assessed exclusively against the Units benefited in equal proportion between such Units, or, at the election of the Executive Board, in proportion to the relative Common Expense liabilities of such Units as between themselves, as the Executive Board may periodically determine, as those Common Expense liabilities may be changed as provided in Section 6.2 and **Exhibit B**. Pursuant to the foregoing, during the period of Declarant Control the Association may adopt an annual Budget allowing for different categories or amounts of monthly assessments as applicable to Units that are (i) fully connected and benefiting from all Common Expenses and (ii) not fully constructed or otherwise benefiting from all Common Expenses (e.g., incomplete or unoccupied units, may be assessed a lower monthly assessment if such Units do not benefit from common expenses relating to common utilities, trash removal, snow removal, etc.).

Section 14.3. Special Assessments. If the cash requirement estimated at the beginning of any fiscal year shall prove to be insufficient to cover the actual Common Expenses for such fiscal year for any reason (including by way of illustration and not limitation, any Owner's non-payment of his Assessment or municipal assessments not yet assessed), the Executive Board shall have the power, at any time it deems necessary and proper, to levy one or more Special Assessments against each Owner. Special Assessments shall be due and payable in the manner and on the date set forth in the notice thereof.

Section 14.4. Payment of Assessments. Each Owner, including the Declarant to the extent it is the owner of any unsold Units, shall pay all Assessments levied by the Association on all declared Units. Liability for such assessments shall be determined in accordance with the formula set forth in **Exhibit B** hereto and the budget established by the Association in accordance with the Bylaws. Penalties for delinquent assessments shall be set forth in the Rules and Regulations of the Condominium. Notwithstanding anything herein to the contrary, and with respect to any assessments levied by the Association against Units owned by the Declarant upon which no Building has been constructed, the Declarant may make voluntary payments to cover Common Expenses incurred by the Association during the Declarant Control Period and to cover expenses that were budgeted based upon Units that have not yet been completed, and such amounts payable by the Declarant shall be sufficient to pay for the reasonable value of services actually received by Declarant as part of the Common Expenses or Limited Common Expenses for such year. The Declarant may offset against such amounts the value of any services provided by the Declarant for the benefit of the Association that would otherwise constitute a Common Expense or Limited Common Expense of the Condominium.

Section 14.5. Failure to Fix New Assessments. If the Executive Board shall fail to fix new Assessments for Common Expenses for the subsequent fiscal year before the expiration of any fiscal year, the Owners shall continue to pay the same sums they were paying for such Assessments during the fiscal year just ended and such sum shall be deemed to be the new Assessments for the succeeding fiscal year. If the Executive Board shall change the Assessment at a later date, the difference between the new Assessment, if greater, and the previous year's Assessment up to the effective date of the new Assessment shall be treated as if it were a Special Assessment under Section 14.2 hereof; thereafter each Owner shall pay the new Assessment. In the event the new Assessment is less than the previous year's Assessment, in the sole discretion of the Executive Board, the excess either shall be refunded to the Owners, credited against future Assessments or retained by the Association for reserves.

Section 14.6. Exemption by Waiver. No Owner may exempt himself from liability for the Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by the abandonment of his Unit or otherwise.

Section 14.7. Personal Liability of Owners. All sums assessed by the Association as an Assessment, Special Assessment or Assessment for Limited Common Expenses or Reserved Common Expenses shall constitute the personal liability of the Owner of the Unit so assessed and also, until fully paid, shall constitute a lien against such Unit pursuant to Section 1603-116 of the Condominium Act. The Association shall take action for failure to pay any assessment or other charges pursuant to Section 1603-116 of the Condominium Act. The delinquent Owner shall be obligated to pay (a) all expenses of the Executive Board, including reasonable attorneys' fees and costs, incurred in the collection of the delinquent assessment by legal proceedings or otherwise, and (b) any amounts paid by the Executive Board for taxes or on account of superior liens or otherwise to protect its lien, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent assessment and shall be collectible as such.

Section 14.8. Liability of Purchaser of Unit for Unpaid Assessments. Upon the voluntary sale, conveyance or any other voluntary transfer of a Unit or any interest therein, the grantee thereof shall not be personally liable with the grantor thereof for all unpaid Assessments for Common

Expenses, special assessments, Limited Common Expenses, Reserved Common Expenses, which are a charge against the Unit as of the date of consummation of the sale, conveyance or transfer, unless such grantee agrees to assume the obligation therefor. A lien against the Unit so purchased for Assessments imposed pursuant to this Declaration or the Condominium Act shall not be affected by such sale, conveyance or other transfer, however.

Section 14.9. Subordination of Certain Charges. Any Assessments or any fees, charges, late charges, fines and interest that may be levied by the Association pursuant to Section 1603-102 of the Condominium Act or otherwise shall be subordinate to any first mortgage lien recorded before the due date of the Assessment or the due date of the first installment payable on the Assessment.

Section 14.10. Surplus. The Budget of the Association shall set forth general Common Expenses. Any amounts accumulated from assessments for Common Expenses in excess of the amount required for actual Common Expenses and reserves for future Common Expenses, unless otherwise directed by the Executive Board, in its sole discretion, shall be credited to each Owner, such credit to be applied to the next Assessments of Common Expenses due from said Owners under the current fiscal year's budget, and thereafter until exhausted, or retained by the Association for reserves.

ARTICLE 15

RIGHTS OF MORTGAGEES, CONTRACT HOLDERS, INSURERS AND GUARANTORS:

Section 15.1. Subject to Declaration. Whether or not it expressly so states, any mortgage which constitutes a lien against a Unit and an obligation secured thereby shall provide generally that the mortgage and the rights and obligations of the parties thereto shall be subject to the terms and conditions of the Act, the Declaration, the Plat and Plans and any Rules and Regulations.

Section 15.2. Rights of Eligible Mortgage Holders. (a) The Association shall send reasonable prior written notice by prepaid United States mail to Eligible Mortgage Holders of the consideration by the Association of the following proposed actions, except where such change may be effected by the Declarant in exercise of a Development Right or otherwise:

- (1) The termination of the Condominium pursuant to Section 1602-118 of the Condominium Act;
- (2) A change in the allocated interest of a Unit or Unit, a change in the boundaries of a Unit or a subdivision of a Unit;
- (3) The merger or consolidation of the Condominium with another condominium;
- (4) The conveyance or subjection to a security interest of any portion of the Common Elements;
- (5) The proposed use of any proceeds of hazard insurance required to be maintained by the Association under, Section 1603-113(a) of the Condominium Act, or of any condemnation proceeds, for purposes other than the repair or restoration of the damaged property;

- (6) The adoption of any proposed budget by the Executive Board and of the date of the scheduled Owners' meeting to consider ratification thereof. A summary of the proposed budget shall accompany this notice;
- (7) Any default in the performance or payment by an Owner of any obligations under the Declaration, including, without limitation, default in the payment of Common Expense liabilities;

(b) In the event of any proposed actions described in subsection (a), paragraphs (1), (2), (3), (4), or (5) hereinabove, an Eligible Mortgage Holder shall have the right, but not the obligation, in place of the Owner to cast the votes allocated to that Unit or give or withhold any consent required of the Owner for such action by delivering written notice to the Association with a copy to the Owner prior to or at the time of the taking of the proposed action, which notice shall be sent by prepaid United States mail, return receipt requested, or by delivery in hand. Failure of the Eligible Mortgage Holder to so exercise such rights shall constitute a waiver thereof and shall not preclude the Owner from exercising such right. In the event of any default described in subsection (a), paragraph (7), the Eligible, Mortgage Holder shall have the right, but not the obligation, to cure such default.

(a) In addition, an Eligible Mortgage Holder or its representative shall have the right to attend Association and Executive Board meetings for the purposes of discussing the matters described in subsection (a), paragraphs (1) through (6).

Section 15.3. Liability for Use and Charges. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in a mortgage for foreclosure of such mortgage or a deed in lieu of foreclosure shall not be liable for such Owner's unpaid assessments or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee, except to the extent otherwise provided for in either of the Act and except to the extent that such Mortgagee is liable as an Owner for the payment of such unpaid assessment or charge that is assessed against the Mortgagee as a result of all Owners being reassessed for the aggregate amount of such deficiency.

Section 15.4. Condemnation Rights. No provision of this Declaration shall give an Owner, or any other party, priority over any rights of the Mortgagee of a Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation award for loss to or a taking of one or more Units and/or Common Elements.

Section 15.5. Books and Records. Any Mortgagee shall have the right exercisable by written notice to the Executive Board, to examine the books and records of the Association and to require that it be provided with a copy of each annual report of the Association and other financial data of the Association reasonably requested by such Mortgagee.

ARTICLE 16

INSURANCE

Section 16.1. Types and Amounts. The Association shall maintain as a Common Expense and to the extent reasonably available, the following types and amounts of insurance:

(a) Property insurance insuring against all risks of direct physical loss normally covered by the standard extended coverage endorsement and commonly insured against, including those covered by the standard "all risk" endorsement, or such other fire and casualty insurance as the Executive Board may determine provides equal or greater protection for the Owners and their Mortgagees, if any, in each case complying with the applicable requirements of Section 16.2 hereof. The insurance maintained by the Association shall cover all Common Elements and Limited Common Elements to the extent required by Section 1603-113 of the Act, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, excluding the Units or any portions thereof. The amount of any such hazard insurance obtained pursuant to this paragraph (a) shall be equal to one hundred percent (100%) of the current replacement cost of any improvements to the Common Elements, at the time the insurance is purchased and at each renewal date without deduction for depreciation, exclusive of land, foundations, excavation and other items normally excluded from coverage. Such hazard insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed the lesser of \$10,000 or one percent (1%) of the policy face amount. Funds to cover this deductible amount shall be included in the Association's reserve fund, once the reserve fund contains sufficient funds to cover such amount through the payment of Unit Owner assessments. The named insured under the policy shall be "Ridgewood Condominium Association, for the use and benefit of the individual owners", or a specified authorized representative of the Association, including but not limited to any Insurance Trustee, and the Association or its representative, as the case may be, shall be designated to represent the Owners in any proceedings, negotiations or settlements under such policy. The "loss payable" clause of such policy shall show the Association or the, Insurance Trustee, if any, as a trustee for each Owner and each Mortgagee of a Unit. Such policy shall also contain a standard mortgage clause naming separately the Mortgagees of the Units, their successors and assigns. If the Executive Board fails within sixty (60) days after the date of an insured loss to initiate a claim for damages recoverable under the policy or policies obtained pursuant to this paragraph (a), any Mortgagee may initiate such a claim on behalf of the Association.

(b) Comprehensive Liability Insurance, including medical payments insurance, complying with the requirements of Section 16.2 hereof, insuring the Owners, in their capacity as Owners and Association members and any managing agent retained by the Association, against any liability to the public or to other Owners, their tenants or invitees, relating in any way to the ownership and/or use of the Common Elements, Limited Common Elements, and any other areas under the supervision of the Association and any part thereof. Such insurance policy shall contain a "severability of interest endorsement" or equivalent, coverage which precludes the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner. Such insurance shall include coverage for bodily injury and property damage that results from the operation, maintenance or use of the Common Elements, Limited Common Elements and Reserved Common Elements, any liability resulting from lawsuits related to employment contracts in which the Association is a party, water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as are customarily covered in similar projects. The amount of such liability insurance shall be at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The scope and

amount of coverage of all liability insurance policies shall be reviewed at least once each year by the Executive Board and may be changed in its discretion provided that such policies shall continue to comply with the requirements of this Section and Section 16.2 hereof. To the extent reasonably available, Mortgagees shall be named, upon their written request, as additional insureds under the Association's liability policy or policies.

(c) Such worker's compensation insurance as applicable law may require, if any.

(d) Insurance to satisfy the indemnification obligation of the Association and all Owners set out in Section 13.2 hereof if and to the extent available, including but not limited to insurance coverage commonly referred to as "Directors and Officers Insurance."

(e) If at any time it is determined that all or any part of the improvements on the Property are located within a special flood hazard area, a master or blanket policy of flood insurance covering the any portion of the improvements comprising any Common Elements, and building service equipment and common equipment, fixtures, personal property and supplies owned by the Association, but excluding the Units and all other personal property of the Owner. The amount of any such flood insurance obtained pursuant to this paragraph (e) shall be equal to the lesser of one hundred percent (100%) of the insurable value of the property insured or the maximum coverage available under the appropriate National Flood Insurance Administration program. Such flood insurance policy may, at the option of the Association, contain a "deductible" provision in an amount not to exceed the lesser of \$5,000 or one percent (1%) of the policy face amount. Funds to cover this amount shall be included in the Association reserve fund.

Section 16.2. Required Provisions. Insurance obtained by the Association shall be in accordance with the following provisions:

(a) Exclusive authority to adjust losses under policies hereafter in force on the Property shall be vested in the Executive Board or its authorized representative.

(b) Each Owner shall obtain property, casualty and liability insurance on his Unit at his own expense as set forth in Section 16.6 below; provided, however, that: (1) such policies shall not be invalidated by the waivers of subrogation required to be contained in policies required by this Declaration; and (2) no Owner shall be entitled to maintain insurance coverage in such a way as to decrease the amount which the Association may realize under any insurance policy which the Association may have in force on the Property at any particular time.

(c) With respect to the insurance policies described in subsection (a) and (b) of Section 16.1 issued to the Association, and covering all or any part of the Property, the Association shall cause such policies to provide that: (1) Each Owner is an insured person under such policies with respect to liability arising out of his ownership of an undivided interest in the Common Elements or membership in the Association; (2) The insurer waives its right to subrogation under the policy against any Owner or members of his household; (3) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association will void such policies or be a condition to recovery under such policies or prejudice the coverage under such policies in any way; (4) If at the time of a loss under such policies there

is other insurance in the name of a Owner covering the same risk covered by the policy, the Association's policy provides primary insurance; (5) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Owner; (6) The insurer shall be relieved from no liability for loss occurring while the hazard to the Property is increased, whether or not within the knowledge or control of the Executive Board, or because of any breach of warranty or condition or any other act or neglect by the Executive Board or any Owner or any other person under either of them; (7) Such policies may not be cancelled nor may coverage thereunder be substantially changed (whether or not requested by the Executive Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Executive Board, the Insurance Trustee, if any, Owners, and every other party in interest who shall have requested such notice of the insurer; and (8) The insurer will recognize any Insurance Trust Agreement entered into by the Association.

Section 16.3. Insurance Trustee and Power of Attorney. Notwithstanding any of the provisions and requirements of this Article relating to property or liability insurance, the Executive Board may designate as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee (hereinafter referred to as the "Insurance Trustee"), who shall have the exclusive authority to negotiate losses under any policy, providing such property or liability insurance.

Section 16.4. Repair of Damage or Destruction to Condominium. The repair or replacement of any damaged or destroyed portion of the Condominium shall be done in accordance with and governed by the provisions of Sections 1603-113(e) and (h) of the Condominium Act.

Section 16.5. Additional Insurance. Nothing in this Declaration shall be construed to limit the authority of the Executive Board to obtain additional insurance which it deems advisable.

Section 16.6. Unit Owner to Obtain Insurance on Unit.

(a) Each Unit Owner shall maintain at its own expense and to the extent reasonably available (i) property insurance insuring against all risks of direct physical loss normally covered by the standard extended coverage endorsement and commonly insured against, including those covered by the standard "all risk" endorsement, in each case complying with the applicable requirements of this Section 16.6. The amount of such hazard insurance obtained pursuant to this paragraph (a) shall be equal to one hundred percent (100%) of the current replacement cost of the Unit and any improvements to the Unit, at the time the insurance is purchased and at each renewal date without deduction for depreciation, exclusive of land, foundations, excavation and other items normally excluded from coverage. Such hazard insurance policy may contain a "deductible" provision in an amount not to exceed the lesser of \$10,000 or one percent (1%) of the policy face amount. Such policy shall also contain a standard mortgage clause naming separately the Mortgagees of the Unit, their successors and assigns; and (ii) Comprehensive Liability Insurance, including medical payments insurance, complying with the requirements of Section 16.6(b) hereof, insuring the Owners and Association members and any managing agent retained by the Association, against any liability to the public or to other Owners, their tenants or invitees, relating in any way to the ownership and/or use of the Unit and any part thereof. Such

insurance policy shall contain a "severability of interest endorsement" or equivalent, coverage which precludes the insurer from denying a claim of the Association because of the negligent acts of the Owner or another Owner. Such insurance shall include coverage for bodily injury and property damage that results from use of the Unit, water damage liability, liability for property of others, and such other risks as are customarily covered in such policies. The amount of such liability insurance shall be at least \$500,000.00 for bodily injury and property damage for any single occurrence.

(b) With respect to the insurance policies described in subsection 16.6(a) issued to the Unit Owner, the Unit Owner shall cause such policies to provide that: (1) The insurer waives its right to subrogation under the policy against the Association and the Declarant; (2) No act or omission by the Association or Declarant will void such policies or be a condition to recovery under such policies or prejudice the coverage under such policies in any way; (3) If at the time of a loss under such policies there is other insurance in the name of the Association or Declarant covering the same risk covered by the policy, the Owner's policy provides primary insurance; (4) The liability of the insurer shall not be affected by, and the insurer shall not claim, any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for the Association or Declarant; (5) The insurer shall be relieved from no liability for loss occurring because of any breach of warranty or condition or any other act or neglect by the Association, the Declarant or any person under either of them; (6) Such policy may not be cancelled nor may coverage thereunder be substantially changed except by the insurer giving at least thirty (30) days prior written notice thereof to Owner and every other party in interest who shall have requested such notice of the insurer.

(c) Each Unit Owner is required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance.

(d) Under no circumstances shall the Association or Declarant be liable for any losses or damages incurred by a unit owner resulting from any failure or insufficiency of the Unit Owner's insurance policy or policies.

Section 16.7 Additional Requirements. All policies shall be written with a company authorized to do business in the State of Maine and, for the hazard insurance policy described in Section 16.1(a) hereof, such company must hold a general policy holder's rating of at least "A" by Best's Insurance Reports, or by an equivalent rating bureau should Best's Insurance Reports cease to be issued.

ARTICLE 17

ASSIGNABILITY OF DECLARANT'S RIGHTS

The Declarant may assign any or all of its rights or privileges reserved or established by this Declaration or the Act in accordance with the provisions of the applicable Act.

ARTICLE 18

AMENDMENT OF DECLARATION

Pursuant to Section 1602-117 of the Condominium Act and except as provided herein for amendments which may be executed by the Declarant, the Association or certain Owners, this Declaration may be amended only by vote or agreement of owners of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated. In addition, approval of amendments of a material nature must be obtained from Eligible Mortgage Holders representing at least 51% of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. A change to any of the following, except where such change may be effected by the Declarant in exercise of a Development Right or otherwise would be considered as material:

- (a) voting rights;
- (b) assessments, assessment liens, or subordination of assessment liens;
- (c) reserves for maintenance, repair and replacement of Common Elements;
- (d) responsibility for maintenance and repairs;
- (e) reallocation of interests in the Common or Limited Common Elements, or rights to their use;
- (f) boundaries of any Unit;
- (g) convertibility of Units into Common Elements or Common Elements into Units;
- (h) expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium;
- (i) insurance or fidelity bonds;
- (j) leasing of Units;
- (k) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit;
- (l) a decision by the Association to establish self management when professional management had been required previously by an Eligible Mortgage Holder;
- (m) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Documents;
- (n) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or
- (o) any provisions that expressly benefit holders, insurers or guarantors of mortgages on the Units.

If the amendment is not of such a material nature, such as the correction of a technical error or the clarification of a statement, the approval of an Eligible Mortgage Holder may be assumed when that eligible Mortgage Holder has failed to submit response to any written proposal for an amendment within thirty (30) days after the proposal is made.

ARTICLE 19

TERMINATION

The Condominium may be terminated only by agreement of the Owners of Units to which eighty percent (80%) of the votes in the Association are allocated; provided, however, that if the Condominium is being terminated for reasons other than substantial destruction or condemnation of the Condominium, the termination of the Condominium must also be approved by Eligible Mortgage Holders of Units to which at least sixty-seven percent (67%) of the votes of Units subject to mortgages held by Eligible Mortgage Holders are allocated. Termination of the Condominium will be governed by the provisions of Section 1602-118 of the Condominium Act.

ARTICLE 20

ATTORNEY IN FACT

Each Owner by his acceptance of the deed or other conveyance vesting in him a Unit does hereby constitute and appoint the Managing Agent acting from time to time with full power of substitution, as his true and lawful attorney in his name, place and stead to enter into all agreements which the Managing Agent is authorized to enter into pursuant to the terms of this Declaration and which the Managing Agent in its discretion may believe are necessary and proper to carry out the agent's responsibilities and duties. Each Owner stipulates and agrees that the Power of Attorney created by this Article 20 is coupled with an interest. The action of the Managing Agent in settling any claim for damage to any personal property shall be binding upon each Owner in the absence of fraud or clear mistake.

ARTICLE 21

GENERAL PROVISIONS

Section 21.1. Headings. The headings used in this Declaration and the table of contents are inserted solely as a matter of convenience for the readers of this Declaration and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

Section 21.2. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion hereof unless such deletions shall destroy the uniform plan of development and operation of the Condominium which this Declaration is intended to create.

Section 21.3. Applicable Law. This Declaration shall be governed and construed according to the laws of the State of Maine.

Section 21.4. Interpretation. The provisions of this Declaration shall be liberally construed in order to effect Declarant's desire to create a uniform plan for development and operation of the Condominium.

Section 21.5. Effective Date. This Declaration shall become effective when it and the Plat and Plans have been recorded.

Section 21.6. Notices. Unless otherwise provided by the Condominium Documents, all notices and other communications required or permitted to be given under or in connection with this Declaration shall be in writing and shall be deemed given when delivered in person or on the third business day after the day on which mailed by regular U.S. mail, postage prepaid, addressed to the address maintained in the register of current addresses established by the Association.

Section 21.7. Exhibits. All exhibits attached to this Declaration are hereby made a part of this Declaration.

Section 21.8. Pronouns. Wherever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders.

IN WITNESS WHEREOF, Mystique Way, LLC, has caused this Declaration to be sealed with its corporate seal and signed in its corporate name by _____ its Manager, thereunto duly authorized, this ___ day of the month of _____, 2020.

SIGNED, SEALED AND DELIVERED

In the presence of:

Mystique Way, LLC

By: _____
Name: _____
Its: Manager

STATE OF MAINE
CUMBERLAND, SS.

_____, 2020

Then personally appeared the above-named _____, the Manager of Mystique Way, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said company.

Before me,

Notary Public/Attorney at Law
Name: _____
Commission Expires: _____

**EXHIBIT A
MYSTIQUE WAY CONDOMINIUM**

[Description]

**EXHIBIT B
DECLARATION OF CONDOMINIUM
MYSTIQUE WAY CONDOMINIUM**

**PERCENTAGE INTERESTS IN COMMON ELEMENTS AND
PERCENTAGE OF COMMON EXPENSE LIABILITY**

Unit No.	Unit Percentage Interest	Vote
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

A Unit's Percentage Interest and percentage of Common Expense liability shall be determined by dividing 100 by the number of Units.