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PHASE III CORPORATION

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TEXAS CORPORATION

PRESENTS

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ENABLING DECLARATION

FOR

THE OAKS CONDOMINIUM

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ENABLING DECLARATION

FOR

THE OAKS CONDOMINIUM

STATE OF TEXAS     §  
                              §           KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF LLANO   §

Declaration of Condominium made this 15th day of January, 1974, by PHASE III CORPORATION, a corporation duly licensed and existing under the laws of the State of Texas, pursuant to and in accordance with the provisions of the Condominium Act of the State of Texas (hereinafter referred to as the "Act"), for the purpose of establishing a condominium regime in respect to the hereinafter described real property and improvements thereon.

I.

DEFINITIONS

1.1 Developer. "Developer" means PHASE III, CORPORATION, a corporation duly licensed and existing under the laws of the State of Texas.

1.2 Act. "Act" means the Condominium Act (Article 1301a) of the State of Texas.

248 1.3 Declaration. "Declaration" means this instrument and all exhibits attached hereto by which the project property is submitted to the provisions of the Act, as hereinafter provided, and such Declaration as from time to time lawfully mentioned.

1.4 Project Tract. "Project Tract" means the real property hereinafter described and submitted to a condominium regime.

1.5 Project Property. "Project Property" means all the real property and all improvements, buildings, structures, facilities, fixtures and equipment erected, constructed, placed or contained thereon or therein.

1.6 Buildings. "Buildings" mean the principal structures housing condominium units to be erected upon the hereinafter described real property.

1.7 Unit. "Unit" means the enclosed area and appurtenances subject to individual ownership within the condominium project. The boundaries of the unit shall be the interior surfaces of the perimeter walls, floors, ceilings and exterior surfaces of balconies and terraces. Common elements within the boundaries of a unit are not included as part of the unit.

1.8 Unit Owner. "Unit Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof whose estates or interest, individually, jointly or collectively, aggregate fee simple absolute ownership of a unit.

1.9 Council of Co-Owners. "Council of Co-Owners" refers to the governing and administrative body for all unit owners.

1.10 Common Elements. "Common Elements" means all portions of the project property except the units as herein-after more particularly defined in this Declaration under section 3.4.

1.11 Description of Major Improvements. The major improvements will consist of four (4) buildings comprising forty-eight (48) individual units, twenty-four (24) ground level units and twenty-four (24) upper level units, all of which are two (2) bedroom two (2) bath units, one hundred twenty eight (128) parking spaces, of which forty-eight (48) are carports and eighty (80) are open parking spaces.

## II.

### SUBMISSION TO CONDOMINIUM REGIME

2.1 Description of Project Tract. Developer is the sole owner in fee simple of certain real property located in Llano County, Texas, herein referred to as the "Project Tract" consisting of Lots 23105, 23106, 23107 and 23108 in Horseshoe Bay, a subdivision in Llano County, Texas, according to Plat No. 23.2 filed April 23, 1973 for lot numbers 23106, 23107 and 23108, and Plat No. 23.3 filed January 15, 1974 for lot number 23105, and recorded in Volume 2, Page 67 and Volume 2, Page 89 of the Plat Records of Llano County, Texas respectively, being all of such lots, and more particularly described as follows:

249 BEING all of Lot Numbers 23106, 23107, and 23108, in Horseshoe Bay, a Subdivision, located in Llano County, Texas, according to Plat Number 23.2 recorded in Volume 2, Page 67, of the Plat Records of Llano County, Texas; and

BEING all of Lot Number 23105, in Horseshoe Bay, a Subdivision, located in Llano County, Texas, according to Plat number 23.3 recorded in Volume 2, Page 89 of the Plat Records of Llano County, Texas.

2.2 Declaration. The Developer hereby makes the following declarations as to the definitions, divisions, descriptions, restrictions, covenants, limitations, conditions, rights, privileges, obligations and liabilities which shall apply to govern, control and regulate the sale, resale or other disposition, encumbrance, acquisition, ownership, use, occupancy and enjoyment of the project property and all parts specifying and agreeing that the provisions and contents of this Declaration shall be and constitute covenants to run with the land and shall be binding on Developer, its successors, part of said project property and their grantees, successors, heirs, devisees, executors, administrators or assigns.

2.3 Purpose. The Developer intends to construct certain buildings and other improvements upon the Project Tract, and to offer units in such buildings for sale. The Developer intends and declares through the recordation of this Declaration its desire to submit the project property and all improvements to be constructed thereon to a condominium regime in accordance with the Texas Condominium Act.

III.

DEVELOPMENT DESCRIPTION

3.1 General Description of Subdivision. The Project Tract lies within Horseshoe Bay, a subdivision of record in Llano County, Texas, approximately 50 miles north west of Austin, Texas, on the Colorado River and near proximity of Lake Lyndon B. Johnson. The Horseshoe Bay Development is managed, controlled and owned by Lake LBJ Improvement Corporation, a party separate and apart in all respects from the Developer.

This Declaration is subject to all restrictions of record imposed upon the generality of lots in the Horseshoe Bay Development designated for town houses or condominiums.

The Horseshoe Bay Development has been platted in segments and Plat No. 23.2 is attached as Exhibit 1. The lots owned by the Developer as of the date of this Declaration and within the boundaries of the Project Tract are shown by hash marks.

3.2 Plat With Building Sites and Units. A plat of the Project Tract showing the proposed buildings to be constructed with identifying capital letters is attached as Exhibit 2.

The four (4) buildings, designated A, B, C and D, located on the project tract and constituting the project property, submitted to the provisions of the Act, are generally described as two story, rock and cedar buildings with shingle roofs.

250 The individual condominium units are designated by Unit Numbers 100 through 111, Building A; Unit Numbers 200 through 211, Building B; Unit Numbers 300 through 311, Building C; Unit Numbers 400 through 411, Building D; and are all depicted upon the Plat attached hereto as Exhibit 2. Each of the units will have an exclusive easement for the use of one (1) carport and one (1) open parking space included in the common elements. The parking areas are designated on the plat attached as Exhibit 2 by the unit numbers and the letters "P-C" designating " parking - closed (carport)" and the letters "P-O" designating "parking - open".

3.3 Description of Units. The units shall be constructed according to two (2) unit types, to wit:

(a) Unit Type X is the upper level unit and is a two (2) bedroom two (2) bath unit containing 1,298 square feet with one (1) balcony and one (1) carport.

(b) Unit Type Y is the ground level unit and is a two (2) bedroom two (2) bath unit containing 1,298 square feet with one (1) terrace and one (1) carport.

The Developer reserves the right to change the interior design and arrangement of all units so long as the Developer owns the units.

3.4 Description of Common Elements. The general Common Elements shall consist of all of the Project Tract, as herein defined, except the individual units. They include without limitation, all common storage areas, the foundations,

bearing walls and columns, common parking areas, yards, gardens, the compartments or installation of central services such as power, light, electricity, pumps, swimming pool, public utility lines, floors and ceilings (other than the finished interior surfaces thereof located within the units), perimeter walls of the units (other than the finished interior surfaces thereof located within the units), structural and supporting parts of all buildings, outside walls and drive-ways, and all structures, fixtures, facilities, equipment and appliances which are designed and intended for the common and mutual use or benefit of each unit and the space occupied by same, and in general all other portions of the project property except the individual units and the particular elements thereof which are to be individually owned, as declared and established in this Declaration. The interior partitions located within each unit (other than the finished interior surfaces thereof) shall be considered bearing walls and general Common Elements. The floor and ceiling structure in each apartment separating the first floor from the second floor and the first floor from the ground floor of the units (as depicted in Exhibits 3 and 4) shall be general Common Elements but any furred structure below the ceiling elevation shown on the plans filed herewith shall be included in the individual ownership of such unit. All sewer and water mains through Buildings A, B, C and D are common to the point of individual attachment to the individual units, and are subject to individual ownership within each such unit. Windows and doors, through framing, are subject to individual ownership in the units in which they are located including sliding glass doors or fixed plate glass. In this connection reference is made only to doors and windows opening the outer walls of the condominium; all electrical wiring on the project is common to all to the point of individual metered attachment, and is separate and owned by the unit owners from the meter through their individual units.

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3.5 Limited Common Elements. The limited common elements consist of all balconies, terraces, outside stairways leading to individual units, carports, and other areas which are marked in Exhibits 3 and 4, attached hereto, as limited common elements by the designation of the letters "LC" or the words "Limited Common". Reference is hereby made to the Act for further definition of the "Limited Common Elements".

(a) Ownership - Each owner of a unit shall be entitled to the same percentage of ownership in the Limited Common Elements as he owns in the Common Elements described in paragraph 3.4 above and as shown on Exhibit 5.

Individual ownership of all doors including framing, all windows including sashes and framing, all floors, tile, all interior floors, interior non-load bearing walls (those within the interior of the unit that form no part of the partition between units) as well as the veneer and paint or wall paper finishing the interior walls, all ranges, plumbing and fixtures including all bathroom and kitchen fixtures, as well as interior wiring on the unit side of any meter are the subject of individual ownership of each particular unit as herein designated and dedicated. Maintenance, repair or replacement of the hereinbefore described appurtenances, fixtures and areas are the responsibility of each unit owner.

(b) Use - Each unit owner shall have the right to use and enjoy the limited common elements, contiguous to

his unit, in common with all other contiguous unit owners, for the purposes for which they are intended and as may be required for the purposes of access and ingress and egress to and use and occupancy, and enjoyment of the respective unit owned by such contiguous unit owner, without hindering or encroaching upon the lawful rights of other contiguous co-owners.

(c) Description - As shown in Exhibits 3 and 4, there are either balconies and a stairway or a terrace contiguous to each unit. The stairways and balconies are contiguous to units 101, 103, 105, 107, 109 and 111 in Building A; Units 201, 203, 205, 207, 209 and 211 in Building B; Units 301, 303, 305, 307, 309 and 311 in Building C; Units 401, 403, 405, 407, 409 and 411 in Building D. The terraces are contiguous to Units 100, 102, 104, 106, 108 and 110 in Building A; Units 200, 202, 204, 206, 208 and 210 in Building B; Units 300, 302, 304, 306, 308 and 310 in Building C; Units 400, 402, 404, 406, 408 and 410 in Building D. The size and location of these balconies, stairways and terraces are shown in the aforementioned exhibits and such balconies, stairways and terraces constitute a part of the general common elements but nevertheless are designed and laid out to serve exclusively the contiguous unit. The owner of each contiguous unit is hereby granted the right to the exclusive use of such balcony and/or stairway and/or terrace and the conveyance of any such unit hereafter shall include, whether expressly set forth or not, the exclusive right of the owner of such unit to use such contiguous balcony and/or stairway and/or terrace. Each unit owner shall be deemed to have acquired such exclusive right to use the balcony and/or stairway and/or terrace contiguous to his unit and to have waived his right to use all other balconies and/or stairways and/or terraces the use of which has been granted to other owners of units contiguous thereto.

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3.6 Easements. Each unit owner shall have an easement in common with all unit owners to use all pipes, wires, and other common elements located in any of the other units in serving his unit. Each of the units shall be subject to an easement in favor of the owners of all units to use the pipes, wires, and other common elements serving such other units and located in such unit. The Board of Administration shall have a right of access to each of the units to inspect the same, to remove violations therefrom and to maintain, repair or replace the common elements contained therein or elsewhere in the building.

For purposes of maintenance or repair, an easement is granted by each unit owner herein to every other unit owner within each of the said buildings to the extent necessary to maintain, repair or replace any electrical fixture, plumbing or water connection. If any damages are occasioned to any other unit, or to any common area necessary to effect the said repairs, same shall be borne by the affected unit owner. A like easement is granted by each and every unit owner within the condominium complex to the condominium as a whole for the repair of a facility or operation in connection with the common area with the cost of any damages resulting to any individual owner by reason of repair of facilities for the use and benefit of the common area becoming the responsibility and a part and parcel of the maintenance expense of the condominium to repair and replace the damage occasioned the individual owner in such instance.

3.7 Encroachments. If any portion of the Common Elements shall actually encroach upon any unit, or if any

unit, shall actually encroach upon any portion of the Common Elements, as the Common Elements and units actually and physically exist, or as shown by the respective survey plats attached hereto, then there shall be deemed to be mutual valid easements for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event the unit building is totally or partially destroyed, and then rebuilt, the owners of the condominium units agree that all encroachments of or upon the Common Elements and facilities due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

3.8 Alterations, Additions and Improvements. No alterations of any Common Elements or Limited Common Elements, or any additions or improvements thereto, shall be made by any unit owner without the prior written approval of the Council of Co-Owners or the Board of Administration authorized to grant such approval. No unit owner shall make any structural modification or substantial alterations in his unit or the installations located therein except in the manner and pursuant to the provisions of the Bylaws.

#### IV.

##### SHARE OF CONDOMINIUM REGIME

4.1 Present Share. The percentage interest which each of the units bear to the entire condominium regime and the liability for common expenses shall be as depicted on Exhibit 5.

#### V.

##### ADMINISTRATION

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5.1 Council of Co-Owners. Each owner of a unit shall automatically be a member of the "Council of Co-Owners" which shall be the governing and administrative body for all unit owners for the protection, preservation, upkeep, maintenance, repair and replacement of the common elements, and the government, operation and administration of the project property and the condominium regime hereby established, and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership shall automatically cease. Upon any transfer of ownership of any unit, regardless of how accomplished, the new unit owner acquiring or succeeding to such ownership interest shall likewise automatically succeed to such membership in the Council of Co-Owners.

5.2 Votes. The aggregate number of votes for all members of the Council of Co-Owners shall be forty eight (48), which shall be divided among the respective Unit Owners as herein provided:

BUILDING A		BUILDING B		BUILDING C		BUILDING D	
UNIT NO.	VOTE	UNIT NO.	VOTE	UNIT NO.	VOTE	UNIT NO.	VOTE
100	1	200	1	300	1	400	1
101	1	201	1	301	1	401	1
102	1	202	1	302	1	402	1
103	1	203	1	303	1	403	1
104	1	204	1	304	1	404	1
105	1	205	1	305	1	405	1
106	1	206	1	306	1	406	1

BUILDING A		BUILDING B		BUILDING C		BUILDING D	
UNIT NO.	VOTE	UNIT NO.	VOTE	UNIT NO.	VOTE	UNIT NO.	VOTE
107	1	207	1	307	1	407	1
108	1	208	1	308	1	408	1
109	1	209	1	309	1	409	1
110	1	210	1	310	1	410	1
111	1	211	1	311	1	411	1
	<u>12</u>		<u>12</u>		<u>12</u>		<u>12</u>

Total Aggregate Votes 48

If any person including Developer, shall own more than one (1) unit, his representation for voting purposes shall be determined by his aggregate interest in the common elements, so that he may exercise the voting rights allocated to each unit owned by him. In the event a unit shall be jointly owned by more than one person, then the voting rights allocated to such unit shall be divided between, and may be proportionately and independently exercised by each joint owner in proportion to their respective ownership interests. The Developer through any officer or representative, may exercise the voting rights with respect to unsold units while owned by the Developer.

5.3 Board of Administration. The Council of Co-Owners shall elect a Board of Administration to consist of not less than three (3) members, who shall serve in such office, without pay or compensation, for such term as specified in the Bylaws of this Condominium Project. Such Board of Administration shall manage the affairs of the Council of Co-Owners, and it shall have such powers, duties, functions, authority and responsibility as shall be specified in said Bylaws or this Declaration or as may be delegated to it from time to time by the Council of Co-Owners.

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5.4 Amendment to Bylaws. This project and the condominium regime hereby established shall be in accordance with the Bylaws which have been initially adopted by the Developer as sole owner of the project property. These Bylaws may be amended from time to time by the Council of Co-Owners in accordance with the provisions thereof. Any and all such amendments to the Bylaws shall be duly certified to by the presiding officer of or other person to conflict with any provisions of this Declaration except in the manner hereinafter provided for amending this Declaration.

5.5 Amendments of Declaration. Except as hereinbelow provided, the provisions of this Declaration shall not be changed or amended except with the written consent of each and every owner of a unit, representing total (100%) ownership of the Common Elements in the aggregate. Each amendment agreed upon by all Unit Owners as aforesaid shall be filed for record in the same manner as the filing of this Declaration.

Provided, however, that the Developer as owner of any unit or units, reserves and shall at all times have the unconditional right to amend this Declaration, without consent or approval of any other Unit Owner, for the purpose of correcting any obvious typographical error in this Declaration, or for the purpose of making this Declaration comply with the mandatory provisions of the Act, if the same shall be deficient in any such respect.

5.6 Temporary Administration. Until the call of the first annual meeting of the Council of Co-Owners as specified herein, the administration of the condominium regime shall be

by the developer, his delegated agents and, when appointed, the initial Board of Administration. The Developer or his delegated agents and, when appointed, the initial Board of Administration. The Developer or his delegated agents during the period of temporary administration may exercise and perform all of the duties, acts, prerogatives, discretions and rights granted to the Council of Co-Owners, and/or the Board of Administration by the Texas Condominium Act, this Declaration or the initial Bylaws as adopted herein. The Developer shall be reimbursed by the Council of Co-Owners for all funds expended by the Developer or its agent in performing the duties of administration charged to the Council of Co-Owners or Board of Administration. The Developer may call the initial meeting of the Council of Co-Owners at any time but shall not be obligated to do so until sixty (60) days from the date of the occurrence of the first of the following:

(a) The expiration of three (3) years from the date of the initial filing of this Declaration.

(b) The sale and conveyance by Deed by the Developer of fifty percent (50%) of the units covered by this Declaration.

## VI.

### ASSESSMENTS

255 6.1 Common Expenses. The owner of each unit, shall be bound and obligated and agrees to pay, as assessments therefore are made, his pro rata share and part of the expenses of administration and of maintenance, repair, upkeep, protection, replacement and operation of the Common Elements, and of any other expenses lawfully agreed to by the Council of Co-Owners or authorized by this Declaration of said Bylaws, all of which expenses herein mentioned are in this Declaration referred to as "common expenses". The pro-rata share of the common expenses which shall be assessed against each unit owner, and which each unit owner agrees to pay, shall be in the same ratio and proportion to his percentage of ownership of the Common Elements. Assessments for common expenses and payment therefor shall be made as determined and provided for in the Bylaws and as the same may be amended from time to time. No owner of any apartment unit or interest therein shall be exempt from paying or contributing his pro rata share of the common expenses by waiver of the use or enjoyment of the common elements or by abandonment of the unit or his interest therein.

6.2 Liens to Secure Assessments. The assessments for common expenses shall be made against the owner of each unit and the unit itself, and in the event any Unit Owner shall fail or refuse to pay the pro-rata share of the common expenses assessed against him, or any part thereof, when the same shall become due and payable as specified in the assessment, then the whole amount of such assessment remaining unpaid shall constitute a valid lien on such unit for the benefit of all other Unit Owners.

All liens securing assessments for common expenses shall be prior to all other liens, except that such assessment liens shall be subordinate, secondary and inferior, and the same are hereby expressly made subordinate, secondary and inferior to (1) all liens for taxes or special assessments levied by the county, and state governments or any political subdivision or special district thereof within the boundaries

of which the project property is located, and (2) all liens securing amounts due or to become due under any mortgage, vendor's lien or deed of trust filed for record prior to the date payment for such assessment for common expenses became or becomes due.

Such lien for common expense assessments herein provided for may be foreclosed, without prejudice and subject to the aforesaid prior and superior liens, by suit by the Board of Administration or any authorized officer or member thereof, acting in behalf of all unit owners, in like manner as mortgages on real property. No such foreclosure suit or sale thereunder shall affect or impair any such prior and superior liens. The Board of Administration or any person authorized by it, acting in behalf of all Unit Owners, shall have power to bid in the apartment unit foreclosed on at the foreclosure sale, and to acquire, hold, lease, mortgage, or convey the same in behalf of all such Unit Owners. All funds realized from any foreclosure sale shall be applied first to the cost and expense of filing and prosecuting suit, including all costs of court and a reasonable amount for attorney's fees, then towards payment of the indebtedness sued on, and the remainder, if any, shall be paid over to the defendant or defendants in the suit as their interest may appear. In the event the proceeds realized from the foreclosure sale, applied as aforesaid shall be insufficient to pay off and discharge the whole amount of the assessment for common expenses sued on, then the purchaser acquiring title to such unit at such foreclosure sale, whoever he may be, other than the owner sued, shall not be liable for the deficiency, but such deficiency, if any, shall be deemed to be a common expense, collectible from all of the owners of the units in this project, including such purchaser at the foreclosure sale, on a pro-rata basis as in the case of other common expenses.

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6.3 Payment on Sale. Upon the sale or conveyance of any unit, all unpaid assessments against the selling owner for his pro-rata share of the common expenses shall be first paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature, except the following:

(1) Assessments, liens and charges in favor of the state and any political subdivision thereof for taxes past due and unpaid on the unit; and,

(2) Amounts due under mortgage instruments duly recorded.

6.4 Statement of Assessments. Any prospective purchaser or mortgagee of any unit, at the request of the owner shall be entitled to a statement from the Board of Administration as to the amount of the unpaid assessments up to a given date for common expenses against the unit to be sold or encumbered, and such purchaser or mortgagee shall not be liable, nor shall the unit sold or mortgaged be liable or subject to any lien, for any unpaid assessments in excess of the amount set forth in said statement for the period of time covered thereby, but any such excess shall be collectible from all other unit owners on a pro-rata basis in proportion to their ownership of the Common Elements.

6.5 Utilities. Each Unit Owner shall pay for his own telephone, electricity and other utilities which are separately metered or billed to each user by the respective utility compa-

ny. Utilities which are not separately billed or metered shall be treated as part of the common expenses, and each user shall pay his pro-rata part thereof as in the case of other common expenses.

6.6 Remedies. In the event of any default by any Unit Owner under the provisions of the Act, Declaration, Bylaws or rules or regulations of the Council of Co-Owners, the Board of Administration and/or the Council of Co-Owners, or their authorized representative, shall have each and all of the rights and remedies which may be provided by the Act, Declaration, Bylaws, or said rules and regulations or which may be available at law or in equity, and may prosecute any action or other proceeding against such defaulting Unit Owner and/or others for enforcement of any lien or to enforce compliance with the particular matter in respect to which default was made, by injunctive relief or otherwise, or for the collection of any sums or debts or damages in default or arising from any such default. All expenses of the Board of Administration or Council of Co-Owners or its authorized representative in connection with any such action or proceedings shall be part of the common expenses and collectable as other common expenses. The Board of Administration shall be further empowered and authorized to correct or cure any such matter in default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner and shall be secured in the same manner as assessments for common expenses.

## VII.

### CASUALTY LOSS

257 7.1 Property Insurance. The Board of Administration shall have the authority to and shall obtain and continue in effect blanket property insurance to insure the buildings, structures and units in or on the project property, and the owners thereof, against risks of loss or damage by, fire and other hazards as are covered under standard extended coverage provisions, and against risks of whatever character, without prejudice to the right of each unit owner to insure his unit on his own account and for his own benefit. Such insurance may be written in the name of and the proceeds thereof may be payable to the Managing Agent or the Board of Administration or any person designated in the Bylaws or by the Council of Co-Owners, as trustee for each of the Unit Owners in their respective percentages of ownership interest in the Common Elements and as their respective interests may appear, as established in this Declaration. Each Unit Owner, and his mortgagee, if any, shall be a beneficiary of such insurance, in the percentage of his ownership interest in the Common Elements, as aforesaid, even though not expressly named in the policy as an insured or beneficiary. All costs, charges and premiums for such insurance shall be "common expenses", and each unit owner shall pay his pro-rata share thereof as in the case of other common expenses, as in this Declaration provided for.

### 7.2 Reconstruction - Application of Insurance Proceeds.

(a) In case of any injury or damage to or destruction of any part of the project property covered by insurance, the insurance indemnity and proceeds shall, except as provided in sub-paragraph (b) below, be applied to reconstruct or repair the building or property so damaged or destroyed, and if such insurance indemnity or proceeds collected shall exceed the total

cost of such reconstruction or repair, then unless the contract of insurance or the Bylaws, as existing or hereafter amended, shall specify otherwise, the Board of Administration or other agent or person named as Trustee in the policy of insurance and collecting said proceeds, shall pay over such excess as follows:

(1) If the damage, injury or destruction affected only the Common Elements and no part of any individual unit suffered any injury, damage or destruction, as determined by the Board of Administration, then such excess shall be paid to the Unit Owners and their respective mortgages, if any, according to their respective interests in the insurance as established in this Declaration.

(2) In the event the damage, injury or destruction does not affect or extend to any of the Common Elements and affects only individual units as determined by the Board of Administration, then such excess shall be paid over to the Unit Owners suffering such damage or destruction and their respective mortgagees, if any, as their respective interests may appear.

(3) In the event the damage, injury or destruction affects both Common Elements and any individual unit then a percentage of such excess in the proportion that the total cost of repairing or restoring the Common Elements as determined by the Board of Administration, bears to the total cost of repairing and reconstructing all of the property injured, damaged or destroyed, shall be paid over to all of the Unit Owners and their respective mortgagees in the ratio of their respective interest in the insurance as established in this Declaration, and the remainder of such excess shall be paid over to the Unit Owner or owners suffering such damage, injury or destruction and their mortgagees, as their respective interests may appear.

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(b) Reconstruction or repair shall not be compulsory where it comprises the whole or more than two-thirds (2/3) of the building as determined by the Council of Co-Owners. In such case, and unless unanimously agreed upon by all of the Unit Owners, the insurance indemnity collected shall be delivered and paid pro-rata to the Unit Owners and their respective mortgagees, if any, as their respective interests may appear entitled to it in accordance with their percentage interest as set forth in this Declaration.

(c) Where the insurance indemnity is insufficient to cover the costs of reconstruction and reconstruction is required as provided for herein and in the Act, the building or reconstruction costs in excess of the insurance proceeds shall be paid by all unit owners directly affected by the damage, in proportion to their respective percentage interests in the Common Elements as set forth in this Declaration, or as may be provided for in the Bylaws, and if one or more of the Unit Owners comprising the minority shall refuse to make such payments, the majority may proceed with the reconstruction at the expense of the Unit Owners benefited thereby upon proper resolution setting forth the circumstances of the case and the cost of the work, as provided for in the Act. The provisions of this sub-paragraph (c) may be changed by unanimous resolution of the parties concerned, adopted subsequent to the date on which the fire or other disaster occurs, as provided for in the Act.

7.3 Public Liability and Other Insurance. The Board of Administration shall also have the authority to and shall obtain comprehensive public liability insurance, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring each Unit Owner and the Council of Co-Owners, Board of Administration, Manager and Managing Agent (temporary or permanent) from and against liability in connection with the Common Elements, and all costs, charges and premiums for all such insurance shall be common expenses. Each Unit Owner shall pay his pro-rata share for such insurance as in the case of other common expenses.

7.4 Individual Insurance. Each Unit Owner shall be responsible at his own personal cost and expense for his own personal insurance on the contents of his own unit and his additions and improvements thereto, and decorating and furnishings and personal property therein, and his personal property stored elsewhere on the project property, and his personal liability to the extent not covered by the liability insurance for all of the Unit Owners obtained as part of the common expenses as above provided.

#### VIII.

##### USES

8.1 Restrictions, Covenants and Conditions. The following restrictions, covenants and conditions are placed upon each of the units affected hereby as a general plan or scheme of restrictions, for the benefit of each unit, to-wit:

(a) All of the units in this Condominium Project, shall be known and described as residential units and shall be used for residential purposes only during the existence and continuance of the condominium regime established by this Declaration.

(b) Each residential unit shall be used and occupied as a private, single-family dwelling unit only. No residential unit shall be altered, remodeled, subdivided or converted into more than one single-family dwelling unit.

(c) No residential unit shall be used or occupied for any professional, office, business or commercial purpose, or any other non-residential purpose.

(d) No trash, garbage or debris shall be placed in any of the hallways, corridors, lobbies, vestibules or similar areas. All garbage shall be disposed of in the garbage disposal facilities.

(e) No signs or posters of any kind shall be placed on any part of the Common Elements except as authorized by the Board of Administration, except that the Developer may maintain a sign on the project property to advertise or attract attention to the project for so long as the Developer owns any unit which is for sale.

(f) Notwithstanding anything herein to the contrary, the Developer shall have the right to use any unit as a "model unit" for display of same to the public and/or for use as a sales office for so long as it owns any unit which is for sale in this project.

#### IX.

##### SALE, RENTAL, OR LEASE

9.1 Right of First Refusal. If the owner of any unit, other than the Developer, shall desire at any time to sell, rent

or lease his unit to any person other than the Developer, and receives an offer for the purchase, rental or lease of the same which he would be willing to accept, such owner shall not sell, rent or lease his unit without first giving the Board of Administration or the Managing Agent acting for the Board of Administration, at least thirty (30) days prior written notice of the proposed sale, rental or lease, which notice shall be sent by U. S. Certified or Registered Mail, with return receipt requested, and shall state the name, address, occupation and place of employment of the proposed purchaser, tenant or lessee, and the price, terms and conditions of the proposed sale, rental or lease. During the period of thirty (30) days following the receipt of such notice by the Board of Administration or Managing Agent, the Council of Co-Owners shall have the right of first refusal to purchase, rent or lease the unit for the same price and upon the same terms and conditions as the proposed sale, rental or lease described in such notice. If the Board of Administration shall fail to give written notice to such Unit Owner within said thirty (30) day period that the Council of Co-Owners has elected to purchase, rent or lease such unit upon the terms herein provided, or if the Board of Administration notifies such Unit Owner in writing within said thirty (30) day period that it has elected not to purchase, rent or lease such unit, then and in either event such Unit Owner may proceed to close said proposed sale, rental or lease transaction. If, however, the Board of Administration gives written notice to such Unit Owner within said thirty (30) day period of the election by the Council of Co-Owners to purchase, rent or lease said unit upon the same terms as the proposed sale, rental or lease described in said notice, then such purchase, rental or lease shall be closed upon the same terms as such proposed sale, rental or lease.

260 The Board of Administration shall have the authority, on behalf of and in the name of the Council of Co-Owners to elect not to exercise such right of first refusal, and to give written notice of such election. The Board of Administration shall also have the authority and right, on behalf of and in the name of the Council of Co-Owners to waive the provisions of this section 9.1 in respect to any unit or units, provided that such waiver shall be in writing, and duly executed and acknowledged in recordable form. Whenever any such waiver may be given by the Board of Administration in respect to any unit or units, the owner or owners thereof may sell, rent or lease the same without regard to the provisions of this section 9.1 and without giving the notice required herein of his proposed sale, rental or lease and without giving the Council of Co-Owners the right of first refusal provided for herein.

If the Board of Administration shall adopt a resolution recommending that the Council of Co-Owners should purchase, rent or lease said unit upon the terms described in said notice, then the Board of Administration shall promptly call a special meeting of the Council of Co-Owners for the purpose of voting upon its right of first refusal, which meeting shall be held within thirty (30) days from date of receipt of said notice, and if the Unit Owners owning not less than seventy-five per cent (75%) in the aggregate of the total ownership interest in the Common Elements, by affirmative vote at such meeting, elect to exercise such right of first refusal to purchase, rent or lease such unit on the terms proposed, then the Board of Administration shall promptly give written notice of such election to the Unit Owner desiring to sell, rent or lease, in accordance with the provisions hereof. In such event, the Board of Administration shall have all authority to execute all such

mortgages and do everything necessary to close the transaction in its own name, as trustee, for all Unit Owners, and to make such assessments as authorized by the Council of Co-Owners, proportionately among the respective Unit Owners in the ratio of their ownership interests in the Common Elements. If the Council of Co-Owners shall purchase, rent or lease any unit as herein provided, the Board of Administration shall have the authority at any time thereafter to sell, subrent or sublease the same on behalf of the Council of Co-Owners, upon such terms and for such price as the Board of Administration may deem proper, and all net proceeds or deficit therefrom shall be applied among all the Unit Owners in proportion to their respective ownership interests in the Common Elements, in such manner as the Board of Administration may determine.

The provisions of this section as to Right of First Refusal, shall not apply to any sales, rentals or leases made by or to the Developer. Any Unit Owner may sell, lease or rent his unit to the Developer without complying with the provisions of this section. Also, the Developer shall have the absolute and unconditional right to sell, rent or lease any unit which it may now own, or which it may acquire by repurchase from any unit owner, to any person whomsoever, without complying with any of the provisions of this section.

X.

NATURE AND INCIDENTS OF  
CONDOMINIUM OWNERSHIP

261 10.1 Rights and Obligations. The rights and obligations of the respective Unit Owners under this Declaration and the Bylaws shall be deemed to be covenants running with the land, so long as the project property remains subject to the provisions of the Act, and shall inure to the benefit of and be binding upon each and all of the respective Unit Owners and their respective heirs, executors, administrators, legal representatives, successors, assigns, purchasers, lessees, grantees, mortgagees, and others having or claiming an interest in any unit, subject to the provisions of the Act and this Declaration and the Bylaws. Upon the recording or acceptance by a Unit Owner at any time of any deed conveying a unit to him, such Unit Owner shall be deemed to have accepted and agreed to and to be bound and subject to each and all of the provisions of the Act and this Declaration and Bylaws, as now existing or hereafter lawfully amended.

10.2 Plan of Condominium Ownership. Each owner of a unit shall individually and separately own such apartment in fee simple, and shall own as a tenant in common the undivided percentage interest in the Common Elements allocated to such unit as set out in Section 4.1 of this Declaration. Said unit and the undivided percentage interest in the Common Elements shall constitute a unit. The undivided interest in the Common Elements allocated to each unit shall not be separated therefrom and shall not be separately conveyed, encumbered or otherwise disposed of, and partition thereof, except as permitted and provided for in the Act, shall be prohibited.

10.3 Decorating. Each Unit Owner shall furnish and be responsible for, at his own cost and expense, all of the decorating within his own unit from time to time, including painting, wall papering, washing, cleaning, panelling, floor covering, draperies, window shades, curtains, lamps and other furnishings and interior decorating. Each Unit Owner shall own the finished interior surface of the perimeter walls, floors

and ceilings which constitute the boundaries of his unit and shall be responsible therefor and maintain the same in good condition at his own expense as may be required from time to time. Each Unit Owner shall also own all windows and glass within his apartment or forming part of the perimeter walls and shall be responsible for the repair and replacement thereof. Decorating of the Common Elements (other than interior surfaces within the units) shall be furnished by the Council of Co-Owners as part of the common expense.

10.4 Separate Taxes. Taxes, assessments and other charges of the State or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority, shall be assessed against and collected on each individual unit, which shall include its percentage or fractional common elements, each of which shall be carried on the tax books as a separate and distinct entity for that purpose, and not on the property as a whole as more particularly provided for in the Act.

10.5 Separate Mortgages. Each Unit Owner shall have the right to make a separate mortgage or encumbrance on his respective unit together with his respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create or to cause to be made or created any mortgage, encumbrance or lien on or affecting the project property or any part thereof, except only to the extent of his individual apartment unit which includes his respective undivided interest in the Common Elements.

10.6 Legal Description. The legal description of each unit may consist of the identifying symbol of such unit and identification by name or other designation of the building, all as shown on and with reference to the respective survey plats which are attached as exhibits hereto.

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It is expressly agreed, and each and every purchaser of an apartment unit, his heirs, executors, administrators, assigns and grantees, hereby agree, that the square footage, size and dimensions of each apartment as set out or shown in this Declaration or in the exhibits attached hereto, are approximate and are shown for descriptive purposes only, and that the Developer does not warrant, guarantee or represent that any apartment actually contains the area, square footage or dimensions shown by the plat thereof. It is specially agreed that in interpreting deeds, mortgages, deeds of trust and other instruments, for any purpose whatsoever or in connection with any matter, the existing physical boundaries of the unit or of a unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be the boundaries regardless of settling, rising, or lateral movement of the building and regardless of variances between boundaries as shown on the plat and those of the buildings.

10.7 Notices. Notices provided for in the Act, Declaration or Bylaws shall be in writing and shall be addressed to the Board of Administration or its representative which may be established from time to time and of which the Unit Owners shall be notified. Notices to the Unit Owners shall be sent to the mailing addresses or their respective units, or to such other address which any Unit Owner may in writing designate by notice thereof to the Board of Administration or its representative.

10.8 Severability. If any provision of this Declaration or Bylaws attached hereto or any section, sentence, paragraph, clause, phrase or word, or the application thereof in

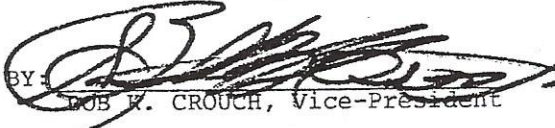
any circumstance, shall be held invalid or unenforceable, the validity or enforceability of the remainder of the Declaration or Bylaws and of the application of any such provision, section, sentence, paragraph, clause, phrase or word in any other circumstances shall not be affected thereby.

10.9 Omissions. In the event of the omission from this Declaration of any provision or stipulation which shall be vital, necessary or expedient for the accomplishment of the purposes and intent of this Declaration, this Declaration shall not thereby fail, in whole or in part, but any and all such omitted matter shall be supplied by inference and/or by reference to the provisions of the Act, under which this condominium regime is established, and the provisions of such Act are hereby made a part hereof by reference thereto.

10.10 Interpretation. If any declaration or provision, sentence, word or clause contained in this Declaration or the Bylaws shall be susceptible to two or more interpretations, the interpretation which shall most nearly be in accord with the Act and the general purpose and intent of this Declaration and Bylaws shall govern.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed by its members, as of this 6th day of May, 1975.

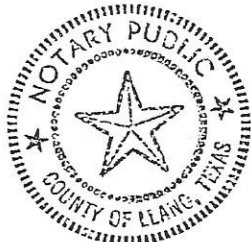
PHASE III CORPORATION


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BY:   
BOB K. CROUCH, Vice-President

THE STATE OF TEXAS    §  
                                 §  
COUNTY OF LLANO       §

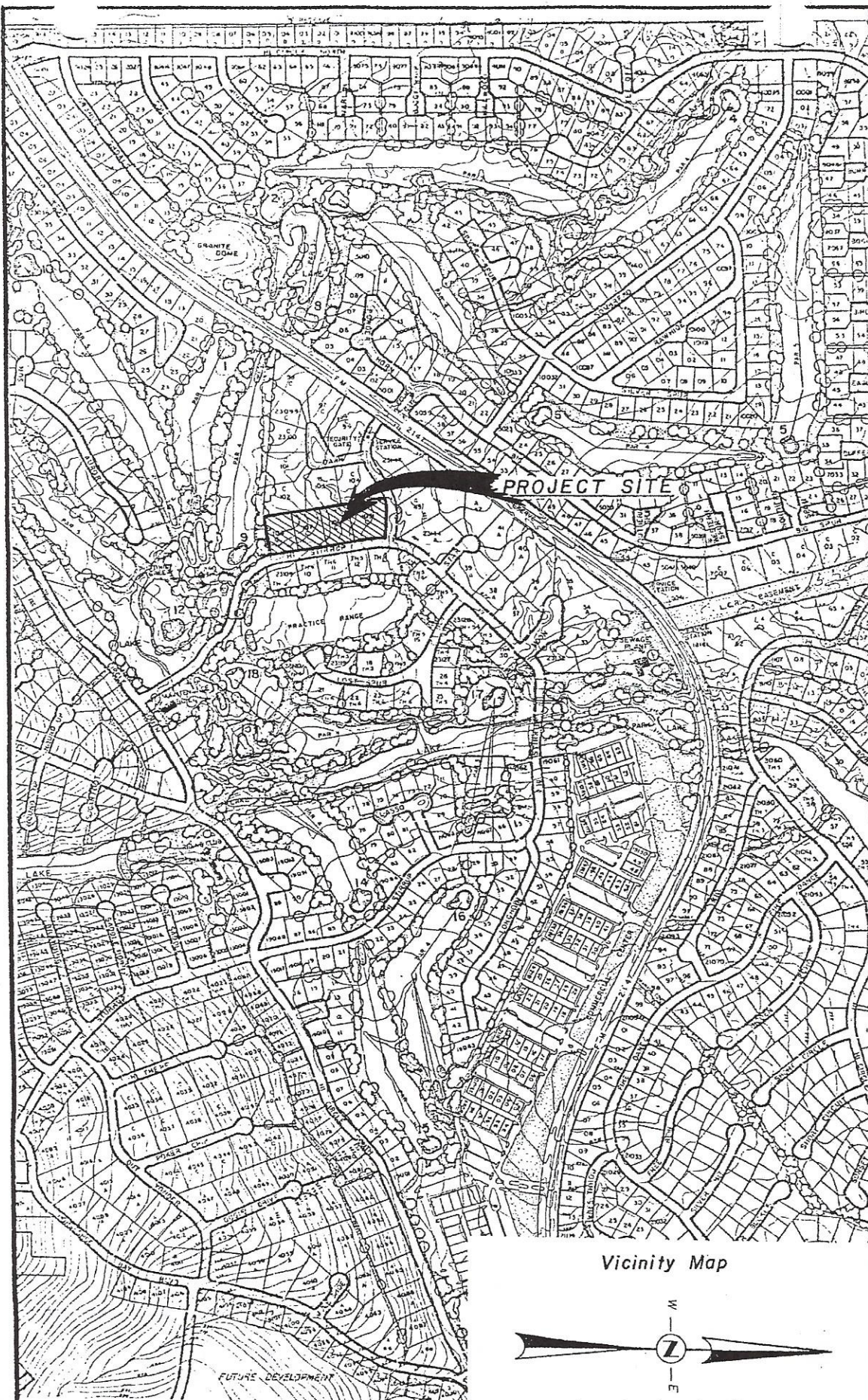
BEFORE ME, the undersigned authority, on this day personally appeared BOB K. CROUCH, Vice-President of PHASE III CORPORATION, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein expressed, and in the capacity therein stated as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this  
6th day of May, 1975.

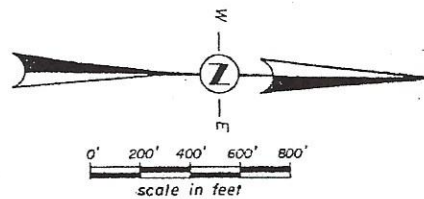


  
Notary Public in and for Llano  
County, Texas.

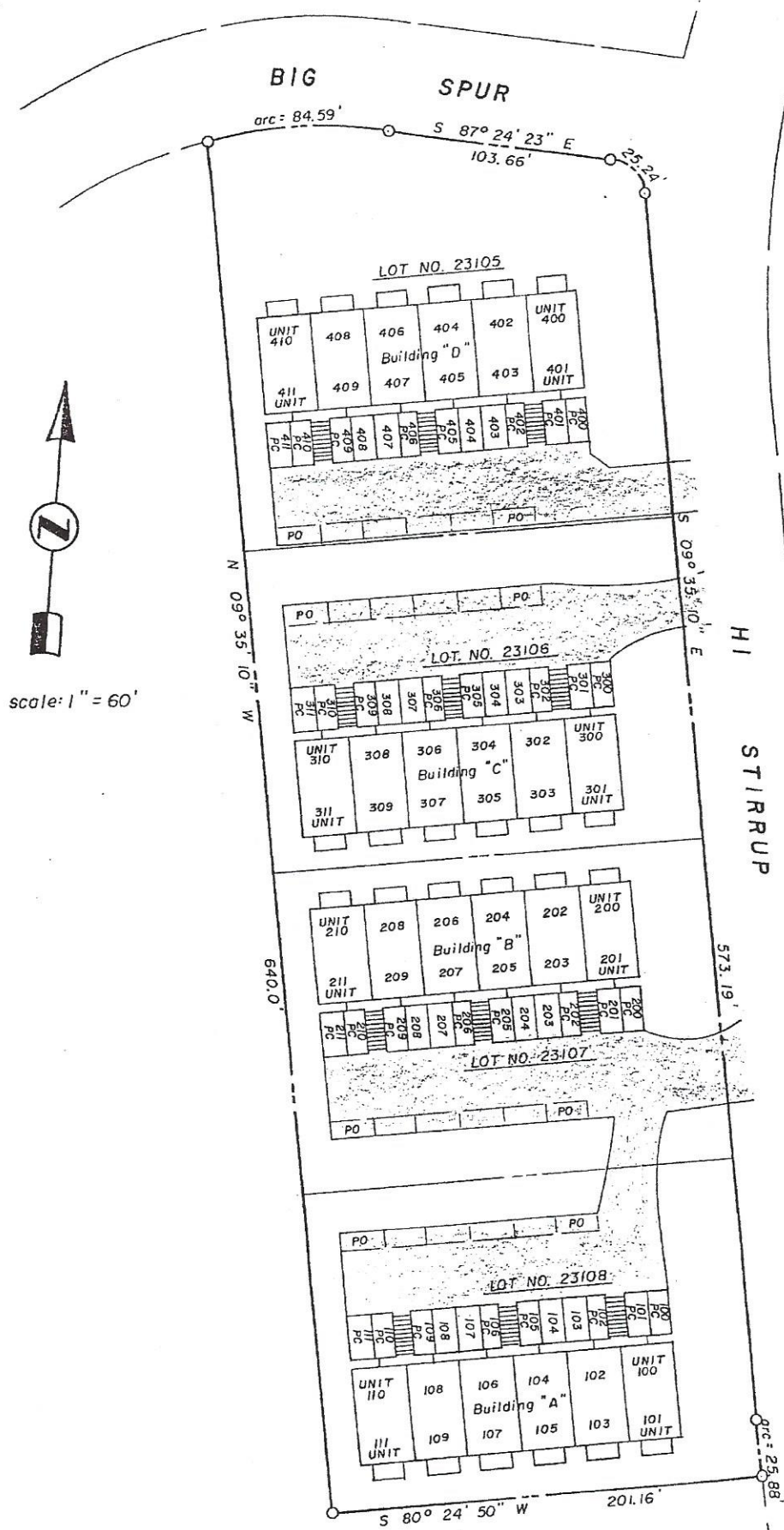
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Vicinity Map



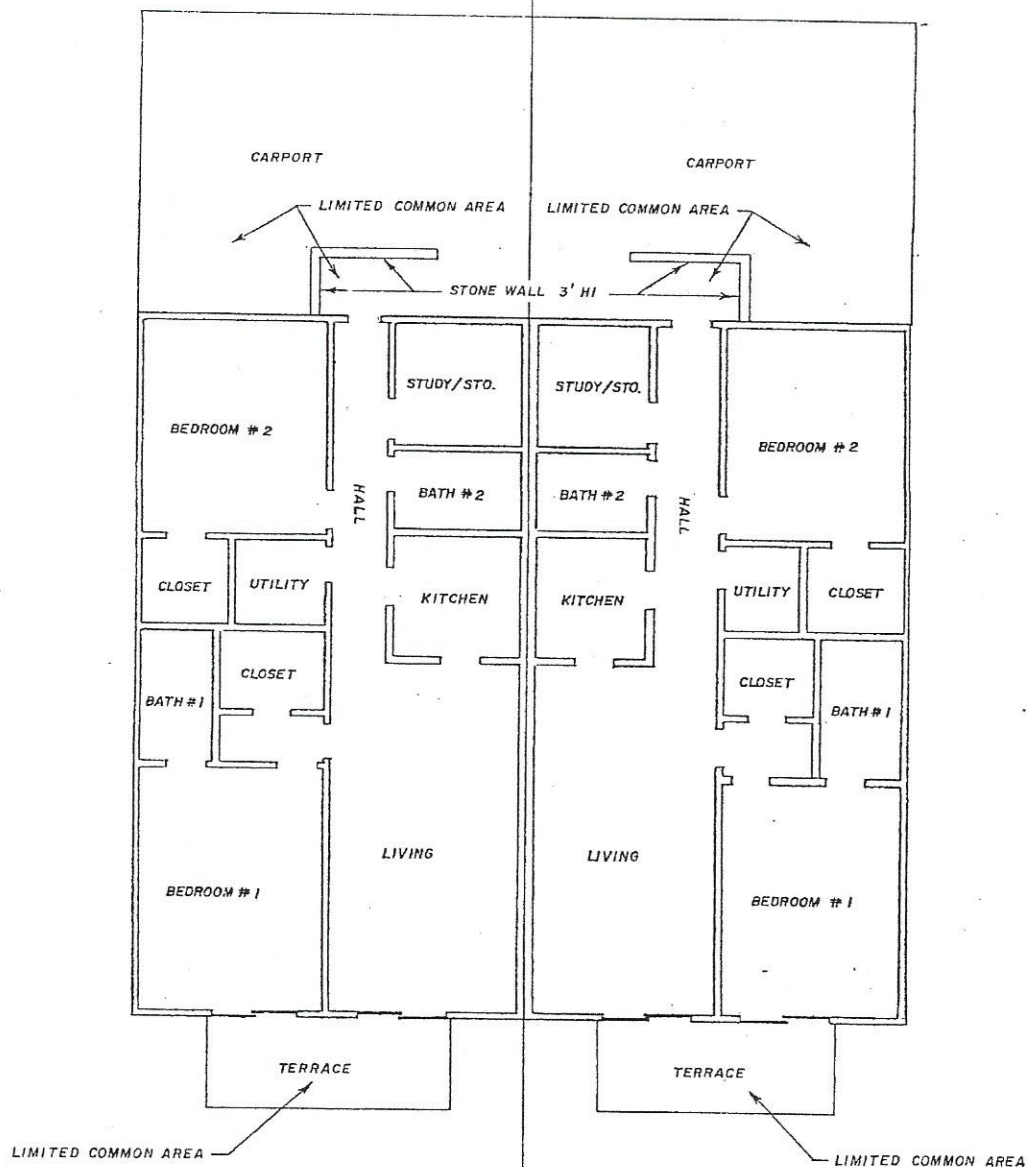
# HORSESHOE BAY



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**THE OAKS CONDOMINIUM**  
Horseshoe Bay Subdivision  
Llano County, Texas

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TYPICAL FLOOR PLAN  
Ground Level  
(Left Hand)  
1,298 Sq. Ft.

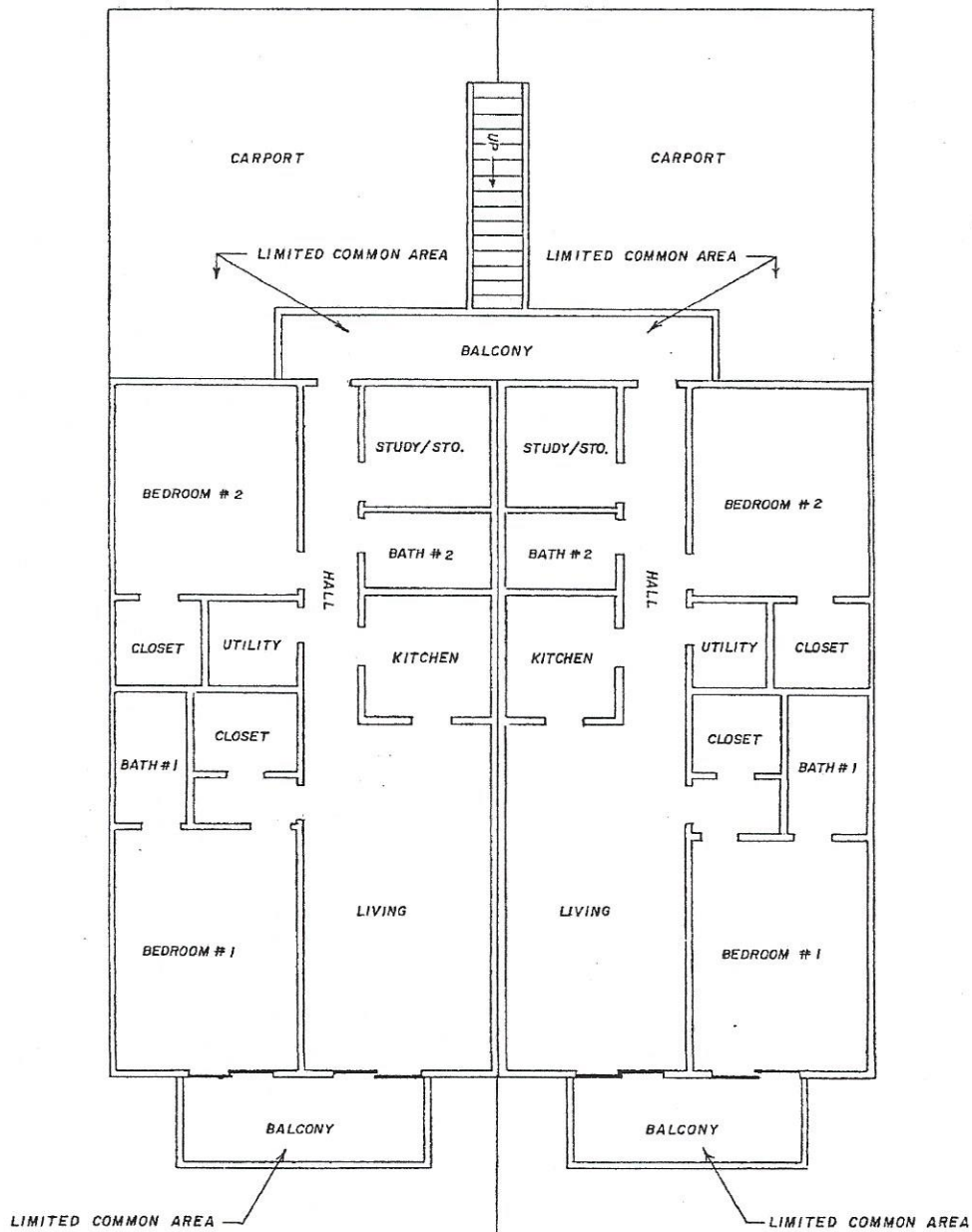
UNITS: 102,106,110  
202,206,210  
302,306,310  
402,406,410

TYPICAL FLOOR PLAN  
Ground Level  
(Right Hand)  
1,298 Sq. Ft.

UNITS: 100,104,108  
200,204,208  
300,304,308  
400,404,408

THE OAKS CONDOMINIUM  
Horseshoe Bay Subdivision  
Llano County, Texas

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TYPICAL FLOOR PLAN  
Second Level  
(Left Hand)  
1,298 Sq. Ft.

UNITS: 103,107,111  
203,207,211  
303,307,311  
403,407,411

TYPICAL FLOOR PLAN  
Second Level  
(Right Hand)  
1,298 Sq. Ft.

UNITS: 101,105,109  
201,205,209  
301,305,309  
401,405,409

# PERCENTAGE INTEREST

X - 2 Bedroom And Terrace  
Y - 2 Bedroom And Balcony

Apt. No.	Bldg.	Unit Type	Square Footage	% of Project	Apt. No.	Bldg.	Unit Type	Square Footage	% of Project
100	A	X	1298	2.08	200	B	X	1298	2.08
101	A	Y	1298	2.08	201	B	Y	1298	2.08
102	A	X	1298	2.08	202	B	X	1298	2.08
103	A	Y	1298	2.09	203	B	Y	1298	2.09
104	A	X	1298	2.08	204	B	X	1298	2.08
105	A	Y	1298	2.09	205	B	Y	1298	2.09
106	A	X	1298	2.08	206	B	X	1298	2.08
107	A	Y	1298	2.09	207	B	Y	1298	2.09
108	A	X	1298	2.08	208	B	X	1298	2.08
109	A	Y	1298	2.09	209	B	Y	1298	2.09
110	A	X	1298	2.08	210	B	X	1298	2.08
111	A	Y	1298	2.09	211	B	Y	1298	2.09
<u>268</u>			<u>15,576</u>	<u>25.00</u>		<u>B</u>		<u>15,576</u>	<u>25.00</u>
300	C	X	1298	2.08	400	D	X	1298	2.08
301	C	Y	1298	2.08	401	D	Y	1298	2.08
302	C	X	1298	2.08	402	D	X	1298	2.08
303	C	Y	1298	2.09	403	D	Y	1298	2.09
304	C	X	1298	2.08	404	D	X	1298	2.08
305	C	Y	1298	2.09	405	D	Y	1298	2.09
306	C	X	1298	2.08	406	D	X	1298	2.08
307	C	Y	1298	2.09	407	D	Y	1298	2.09
308	C	X	1298	2.08	408	D	X	1298	2.08
309	C	Y	1298	2.09	409	D	Y	1298	2.09
310	C	X	1298	2.08	410	D	X	1298	2.08
311	C	Y	1298	2.08	411	D	Y	1298	2.08
			<u>15,576</u>	<u>25.00</u>		<u>D</u>		<u>15,576</u>	<u>25.00</u>

62,304 Square Feet = 100%

## THE OAKS CONDOMINIUM

Horseshoe Bay Subdivision  
Llano County, Texas

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Filed for Record the 7th day of May, 1975, at  
9 o'clock A.M.  
Recorded the 7th day of May, 1975, at 9:30 o'clock A.M.  
Lee McDonald, County Clerk, Llano County, Texas  
Delma Atchison, Deputy.