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Book - 10755 Pg - 8587-8614  
RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 28 P.

**WHEN RECORDED RETURN TO:**

Scot Safford  
45 Twelve, LLC  
6440 South Wasatch Blvd., Ste 100  
Salt Lake City, UT 84121

109175 CAU

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS,  
RESERVATION OF EASEMENTS  
AND BYLAWS  
FOR  
45 TWELVE TOWNAPARTMENT UNITS**

This Declaration of Covenants, Conditions, and Restrictions, Reservation of Easements and Bylaws for 45 Twelve Townhomes (collectively "Declaration"), is made and executed by 45 Twelve, LLC, a Utah limited liability company, whose principal address is 2386 Haven Lane, Holladay, UT 84117 (hereinafter referred to as the "Declarant") with reference to the following:

**RECITALS**

A. Declarant is the owner of certain real property located in Salt Lake County, Utah described more particularly on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. Declarant has subdivided the Property into a subdivision consisting or to consist of twenty-two (22) Lots.

C. The Property is an area of unique, natural beauty featuring distinctive terrain.

D. Declarant desires to provide a general plan for the development of all of the Property and for the establishment of covenants, conditions, and restrictions to enhance and protect the value and attractiveness of this uniquely attractive residential property, all in accordance with the provisions of this Declaration.

E. The development of the Property and the construction of the improvements thereon has been, or is to be, performed in accordance with Declarant's *Development Agreement* (as it may be amended or supplemented) with f Millcreek ("Millcreek"), the plans approved by Millcreek and the Final Plat recorded or to be recorded concurrently herewith.

F. Declarant intends to continue to own the Property, including all of the Lots, Limited Common Area, and Common Areas and Facilities (as shown on the Final Plat) and rent the individual Apartment Units contained in the Subdivision.

G. The Declarant desires by filing this Declaration of Covenants, Conditions and

Restrictions to submit the 45 Twelve project and all improvements now or hereafter constructed thereon to the terms, covenants, conditions, and restrictions set forth below which shall constitute equitable servitudes and shall run with the land.

H. There is currently one (1) owner of the Property, including all Lots, Limited Common Areas, and Common Areas and Facilities (the "Owner"). Since there are Common Areas and Facilities, if the Declarant/Owner subsequently decides to sell some or all of the individual Lots to a third party or parties, then Declarant/Owner intends to (a) amend and restate this Declaration and (b) create a homeowners association and bylaws for this Subdivision, although at the present time there is no homeowners association.

### **COVENANTS, CONDITIONS AND RESTRICTIONS**

NOW, THEREFORE, for the reasons recited above, the Declarant hereby covenants, agrees, and declares that the Property shall be subject to the following covenants, conditions, and restrictions:

1. Definitions. The following definitions shall apply to this Declaration:
  - a. "Apartment Unit" shall mean and refer to the apartment, dwelling, residence, living unit, or separate physical part of a Lot intended for independent occupancy and use. Mechanical equipment and appurtenances located within any one Apartment Unit, or located without said Apartment Unit but designated and designed to serve only that Apartment Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Apartment Unit. All pipes, wires, conduits, or other utility lines or installations constituting a part of the Apartment Unit or serving only the Unit, and any structural members, parts, components, or any other property of any kind, including fixtures or appliances within any Apartment Unit shall be deemed to be part of the Apartment Unit.
  - b. "Builder" shall mean Declarant, an Owner, or a contractor who obtains a construction or occupancy permit for one or more Buildings or Apartment Units.
  - c. "Building" shall mean an edifice or structure designed to stand more or less permanently.
  - d. "County" shall mean Salt Lake County, Utah.
  - e. "Development Agreement" shall mean the agreement between Declarant and Millcreek bearing the date April 9, 2018, a copy of which is attached hereto and incorporated herein by this reference.
  - f. "Entry" shall mean the entry way into the Project.

g. "Final Plat" shall mean the recorded "Plat Map of the 45 Twelve, a conservation subdivision" on file in the office of the County Recorder of Salt Lake County, as amended or supplemented from time to time.

h. "Garage" shall mean a structure or building intended to house a motor vehicle or vehicles.

i. "Lot" shall mean the subdivided and recorded lot within Property, and where the context so requires any Building or Apartment Unit constructed thereon.

j. "Lot Number" shall mean the number and/or letter used to identify a particular Lot.

k. "Millcreek" shall mean Millcreek, a municipal corporation, located within Salt Lake County, Utah.

l. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot, excluding those having such interest merely as security for the performance of an obligation.

m. "Project" shall mean 45 Twelve.

n. "Property" shall mean all of real property and real property interest comprising the Subdivision.

o. "Single Family" shall mean and refer to a "single family" as that term is defined by Millcreek ordinance. In the absence of a Millcreek ordinance the term shall mean one of the following: (1) a single person, or (2) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (3) a group of not more than three (3) unrelated persons who maintain a common household, to be distinguished from a group occupying a boarding house, club, fraternity, or hotel. A Single Family may include an additional natural person or persons approved in writing by the Board of Directors, such as a caretaker or domestic help.

p. "Subdivision" shall mean 45 Twelve Subdivision according to the Final Plat.

2. Description, Legal Status, and Residential Nature of the Project. The Final Plat shows the Common Areas and Facilities, driving and parking lanes, Limited Common Areas, including Garages and patios/decks, and each Lot. The Final Plat shows the Lot Number of each Lot in the Project and its location. All Lots shall be capable of being independently owned, encumbered, and conveyed, subject to all easements and encumbrances of record. It is intended that there will be twenty-two (22) Lots in the Project, numbered 1-22, inclusive. This is a residential subdivision and Apartment Units must be occupied by a single family.

3. Area of Application. This Declaration shall apply to all of the Property.

4. Right to Expand Application. The Declarant shall have the unilateral right to expand the application of this Declaration to other property by written amendment to this Declaration duly recorded, and without additional Owner approval required.

5. Easements. Declarant hereby reserves to itself and grants:

a. Common Easement. A perpetual right-of-way and non-exclusive easement over, across, and through the Project for use in common by the Declarant and Owner(s), subject to all of the terms, covenants, conditions and restrictions set forth herein.

b. Private Easement. A perpetual private non-exclusive easement for the exclusive use and benefit of the Declarant and Owner(s).

c. Declarant's Easement. An exclusive easement to the Declarant, for itself and its affiliates and assignees, to make such use of the Project as may be necessary or convenient to perform the duties and functions hereunder, including, by way of illustration but not limitation, the construction of the improvements, Lots, and Apartment Units in the Project.

d. Construction Easements. A temporary construction easement to the Declarant, for itself and its affiliates and assignees, over, under, across, and through the Project for the purpose of doing all things that are reasonably necessary as a part of constructing any new improvements for the Project including all physical improvements as well as all Lots and Apartment Units. The Owner(s) do hereby acknowledge and agree that there will be construction activities, traffic, noises, odors, and vibrations which may temporarily disrupt their quiet enjoyment of their Lots and Apartment Units until all improvements are complete, and such Owner(s) do hereby waive any right to object to such construction activity; provided, however, Declarant shall endeavor to use reasonable efforts to minimize the adverse impact of such construction activities on the Owner(s), Lots, and Apartment Units. Declarant's construction activities pursuant to the easement granted hereunder shall not be deemed to be a violation of the Use Restrictions.

e. Locations of Facilities Easements. A non-exclusive easement to the Declarant, for itself and its affiliates and assignees, to construct, operate, maintain, repair, and replace all types of telecommunication facilities, including but not limited to, roof antennas, within suitable locations for such facilities (the "Locations of Facilities") within the Project. Declarant further reserves a right of access to the Locations of Facilities over, across, under, and through the Project in order to access the Locations of Facilities to exercise the rights established herein. Declarant reserves the perpetual right to transfer by easement, license agreement, or other conveyance the rights reserved hereunder to one or more telecommunication facilities providers. Declarant may exercise all of such rights unilaterally and without the consent of any Owner.

f. Non-Exclusive Utility Easement. A non-exclusive easement to the Declarant, and its affiliates and assignees, over, across, through, and under the Property for ingress to, egress from, and installation, replacement, extension, modification, repair, and maintenance of all utility

and service lines and systems, including, without limitation, water, sewer, gas, telephone, electricity, and cable communication that service the Property or any portion thereof as well as any such lines and systems which service property owned by the Declarant.

g. Storm Drain, Gas Line and Utility Easements. As shown on the Final Plat, the Lots are subject to those certain storm drain, gas line and other utility easements, as well as the rear-Lot swale.

h. Duty to Maintain Integrity of Established Drainage Pattern. Within these easements and rights of way, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by the Owner, excepting those improvements for which a public authority or utility company is expressly responsible. For purposes of this subsection, the term "established drainage pattern" shall mean the drainage pattern, facilities, and improvements in existence at the time a Lot is conveyed to a Apartment Unit purchaser by the Declarant, its successor or assign.

i. Duty to Maintain Surface Areas of Easements and Rights of Way and Covenant Not to Interfere. Owner(s) shall maintain the surface area of the easements and rights of way on his or her Lot in a state of good condition; however, Owner(s) shall not interfere or attempt to interfere with utility easements, storm drains, land drain system or the established drainage pattern established by the Declarant and Millcreek or their successors or assigns, or any other easements and rights of way as shown on the Final Plat.

j. Improvement of Lots Relative to Easements, Rights of Way and Established Drainage Patterns. Owner(s) shall be responsible to develop, improve, and landscape his or her Lot in a manner consistent with the easements, rights of way, rear-Lot swale, land drain system and the established drainage pattern, and so as not to detract from, interfere with, or impair said interests and patterns his or her Lot or on any other Lot within the Project. No changes to the easements, rights of way, swale, drainage system or the established drainage pattern on any Lot shall be permitted without the prior express written consent of the Declarant and Millcreek.

k. Damage or Waste. Owner(s) shall be strictly liable for any loss, damage, or claim caused to person or property in the Project caused by his negligence or carelessness, or that of his or her family members, tenants, renters, lessees, residents, occupants, guests, visitors, invitees, or permittees of his or her Lot or Apartment Unit.

l. Encroachments. If any part of an improvement encroaches or shall hereafter encroach upon adjoining Common Area or an adjoining Lot or Apartment Unit, then an easement for such encroachment and for the maintenance of the same shall and does exist. Such easements shall extend for whatever period the encroachment exists. Such encroachments shall not be considered to

be encumbrances on the affected Common Areas, Lots or Apartment Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any improvement constructed or to be constructed within the Project, by error in the Final Plat, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

m. Reservation of Rights. The deeds or other documents of conveyances for any Lot or Apartment Unit within the Project hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such easements and/or licenses as are provided herein, even though no specific reference to such easements appears in any such conveyance.

6. Zoning. All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Subdivision land use and buildings.

7. Property Conditions Disclosure. By accepting a deed or other document of conveyance to a Lot, the Owner hereby expressly agrees to be subject to and bound by this Declaration.

8. Use Restrictions and Nature of the Project. The Property is subject to the following initial use restrictions, which shall govern both the architecture and the activities within the Project:

a. Single Family Residence. No Lot shall be used except for residential purposes and no more than one (1) single family may reside in an Apartment Unit as that term is defined by local ordinance.

b. Business Use and Apartment Unit Occupation Guidelines. No resident may operate a commercial trade or business in or from his or her Lot with employees of any kind or with customers who are not residents of the Project, or which create or maintain a nuisance. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Lot. No commercial trade or business may be conducted in or from a Lot unless (1) the business activity conforms to all Millcreek home occupation and zoning requirements governing the Project; (2) the operator has a city issued business license; and (3) the business does not create a nuisance.

c. Motor Vehicles. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any driveway or Apartment Unit or to create an obstacle or potentially dangerous condition. Motor vehicles shall be parked in the garage or driveway. No resident shall repair or restore any vehicle of any kind in, on or about any Lot, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed. All garages shall be used

primarily for the parking and storage of vehicles. Parking on the street overnight is prohibited. Except for purposes of loading or unloading passengers or supplies, for a period of time not to exceed twenty-four (24) hours, all recreational, commercial, and oversized vehicles must be stored in the garage or on a parking pad; provided, however that (a) the motor vehicle is in good running condition, (b) the motor vehicle or trailer is properly licensed and registered, (c) the parking pad is located in the rear yard, which means behind the geometric plane of the front of the house, and (d) a parking pad fence has been installed in accordance with the approved plans. Eighteen wheeled semi-trailers or other similar transportation devices are not allowed. No temporary carport or canopy may be installed in the front, side, or rear of the Lot.

d. Trash and Garbage Pick-Up. No Lot shall be used as a dumping ground. All trash, garbage, debris, rubbish, or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.

e. Aerials, Antennas, and Satellite Systems. All exterior aerials, antenna and satellite dishes (collectively "antenna") must be installed and positioned in accordance with FCC guidelines, rules and regulations, as they may be amended or supplemented from time to time.

f. Animals and Pets. Pets, animals, reptiles, fowl and fish are not allowed without the express prior written consent of Declarant, its successors or assigns.

g. Laws. Nothing shall be done or kept in, on or about any Lot or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

h. Damage or Waste. Owner(s) shall repair any damage he or she or any other residents, guests, or invitees of his or her Lot may cause to another Owner, Lot, or Apartment Unit, and promptly restore the property to its original condition.

i. Zoning. All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Project land use and buildings.

k. Nuisances. No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother, or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property. A violation of any use restriction set forth herein shall be considered a nuisance.

l. Temporary Structures. No structure of a temporary nature or character, including but not limited to any trailer, shack, shed, tent, garage, barn, or other out-building shall be constructed, installed, or used on any Lot at any time as a residence.

9. Development Agreement Requirements. The Property is subject to a Development

Agreement with Millcreek. In accordance with the terms of the Development Agreement, the below limitations are restated and incorporated herein. This section may not be amended without the express written consent of Millcreek:

a. Powers Reserved by Millcreek. Nothing in these Declarations shall limit the adoption and exercise of police power by Millcreek in enacting zoning, subdivision, development, transportation, environmental, open space, and related land-use plans, policies, ordinances and regulations, provided that the adoption and exercise of such power shall not restrict Declarant's vested rights to develop the Property as provided in the Development Agreement. These Declarations are not intended to and do not bind the Millcreek Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

c. Compliance with Millcreek Ordinance Standards. Declarant acknowledges and agrees that nothing in these Declarations shall be deemed to relieve it from the obligation to comply with all applicable ordinances and requirements of Millcreek necessary for development of the Property, including the payment of fees, and compliance with applicable Millcreek standards.

d. Specific Design Conditions. The Property shall be developed and constructed subject to the design limitations contained in the Development Agreement. Such limitations include a height limitations of 31 feet, a requirement that all structures incorporate a traditional design featuring gables, a varied roofline, architectural relief and fenestration on the sides of the structures facing 4500 South or 1200 East, and a requirement that the structures incorporate a mix of materials consisting, at a minimum, of brick or stone veneer on the front and side elevations of the structures on the Property, and gables incorporating a change of materials, with each material used at the specific percentages and according to the design standards set forth in the Development Agreement. No structure on the Property will utilize aluminum or vinyl siding, except for use as soffit or fascia material.

e. Limit to Number of Motorized Vehicles per Unit. In accordance with these Declarations, all units on the Property that are rented shall have a rental agreement that has been approved by Millcreek that, among other things, limits each unit to two motorized vehicles per unit, with the option of an additional motorized vehicle if an accessory garage is leased.

f. Limits on Garages. Accessory garages on the Property shall be limited to covered parking or storage for the homeowners and residents of the Property. Accessory garages may not be used for commercial purposes, including but not limited to commercial storage



g. Prohibition of Parking on 1200 East. Residents and guests will not park on-street on either side of 1200 East. The homeowner association will assess a fine in an amount not less than \$50 per violation (plus interest as allowed by law) against any owner or resident who parks his or her vehicle, or whose guest parks a vehicle, on 1200 east.

10. Leases. Each and every lease or rental agreement affecting the Property, or any Unit or part thereof shall include or shall be considered to include by this reference the requirement that Owner and residents shall strictly comply with any and all parking restrictions and other terms of the Development Agreement. Otherwise there are no restriction on the right of Owner(s) to lease, rent or otherwise grant occupancy rights to his or her Apartment Unit.

11. View Impairment. The Declarant does not guarantee or represent that any view over and across any property, including any Lot or Building will be preserved without impairment. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

12. Amendments. This Declaration may be amended by the Declarant at any time and for any reason without any other approval required; provided, however, when all of the Lots have been sold by Declarant to third parties, then this Declaration may only be amended by the affirmative written approval of two-thirds (2/3) of the Owner(s). To be valid an amendment must be reduced to writing and recorded in the Office of the Salt Lake County Recorder; provided, however, so long as the Declarant shall own at least one (1) Lot in the Subdivision, no amendment shall be valid or enforceable without Declarant's express prior written consent.

13. Declarant's Sales Program. Anything to the contrary notwithstanding, for so long as Declarant continues to own a Lot in the Subdivision the following provisions shall be deemed to be in full force and effect. No Owner, association of Owners or occupant shall interfere or attempt to interfere with the completion of improvements, promotion and/or sale of Lots owned by Declarant or Apartment Units constructed thereon. Declarant shall have the right to maintain one (1) or more sales offices and one (1) or more model Apartment Units at any one time. Such office and/or models may be one or more of the Apartment Units owned by the Declarant, one or more separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing. Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property. Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, signs, banners, or similar devices. Declarant shall have the right to remove from the Project any signs, banners, or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort. All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer, or assignment. Any Mortgage covering all Lots or Buildings in the Project, title to which is vested in Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protections, and controls which are accorded to Declarant (in its capacity as Declarant) herein.

14. Interpretation. To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The term *shall* is mandatory and the term *may* is permissive. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

15. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Declarant, all other signatories hereto, all parties who hereafter acquire any interest in a Lot, the Subdivision or the Property, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Owner(s) or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

16. Enforcement and Right to Recover Attorneys Fees. Should the Declarant or an aggrieved Owner be required to take action to enforce or construe the Declaration or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the prevailing party shall be entitled to recover his reasonable attorneys fees, costs and expenses which may arise or accrue, regardless of whether a lawsuit is filed.

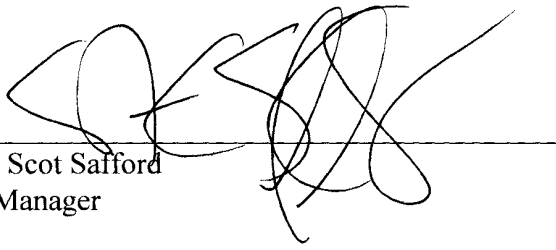
17. Limitation of Liability. This Declaration of covenants, conditions and restrictions is established for the benefit of the Property and the Owner(s). Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of Declarant or its agents, representatives, and employees shall be exempt from any civil claim or action, including an action for negligence, brought by any person owning or having an interest in any Lot.

18. Duration. The covenants and restrictions of this Declaration shall endure for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Dated the 25 day of FEB, 2019.

DECLARANT:  
45 TWELVE, LLC, a Utah limited liability company

By: \_\_\_\_\_  
Name: Scot Safford  
Title: Manager

A handwritten signature in black ink, appearing to read 'Scot Safford', written over a horizontal line. The signature is stylized and somewhat illegible due to its cursive nature.

ACKNOWLEDGEMENT

STATE OF UTAH                    )  
  :SS.  
COUNTY OF SALT LAKE    )

The foregoing instrument was acknowledged before me the 25 day of February, 2018 by Scot Safford, who is the Manager of 45 TWELVE, LLC, a Utah limited liability company, and said Scot Safford duly acknowledged to me that he executed the same pursuant to a Resolution of Members and/or its Articles of Organization and Operating Agreement.



*Mary Bradshaw*  
\_\_\_\_\_  
NOTARY PUBLIC

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

The Property referred to in the foregoing document is located in Salt Lake County, Utah and is described more particularly as follows:

**EXHIBIT A  
PROPERTY DESCRIPTION**

**PARCEL 1:**

Proposed 45 TWELVE TOWNHOMES, a Planned Unit Development, being more particularly described as follows:

An entire tract of Land located in the Southeast quarter of Section 5, Township 2 South, Range 1 East, Salt Lake Base and Meridian, containing four (4) parcels described as Parcel 1, 2 and 4 per that Warranty Deed recorded December 29, 2017 as Entry No. 12688859 in Book 10634 at Page 5703 on file at the Salt Lake County Recorder's office and Parcel 3 per that Warranty Deed recorded December 29, 2017 as Entry No. 12688860 in Book 10634 at Page 5705 on file at the Salt Lake County Recorder's office, being more particularly described as follows:

Beginning at the Northwest corner of Auburn Court Subdivision recorded November 2, 2011 as Entry No. 11273048 in Book 2011P at Page 141 on file at the Salt Lake County Recorder's office, said point being North 89°54'45" West 458.94 feet along the monument line of 4500 South Street and South 00°05'55" West 33.00 feet from the Salt Lake County Monument No. 2S1E056B, said monument being located at the intersection of 4500 South Street and 1300 East Street and running thence South 241.79 feet along the West line of said Auburn Court Subdivision; thence West 5.71 feet; thence South 55.00 feet; thence West 245.00 feet to the Southwest corner of Riley Subdivision recorded December 8, 2004 as Entry No. 9243028 in Book 2004P at Page 365 on file at the Salt Lake County Recorder's office; thence North 120.17 feet along the West line of said Riley Subdivision; thence North 89°54'45" West 75.09 feet to the Easterly right of way line of 1200 East Street (a 60 foot wide road); thence North 00°00'25" East 177.00 feet along said right of way line; thence South 89°54'45" East 75.06 feet to the Westerly line of said Riley Subdivision; thence along the boundary of Lot 2, Riley Subdivision the following three (3) courses, 1) South 144.44 feet; 2) East 113.00 feet; 3) North 144.27 feet; thence South 89°54'45" East 137.71 feet to the point of beginning.

**PARCEL 1A:**

A right of way for ingress and egress as disclosed in a Warranty Deed dated September 9, 1982 and recorded August 20, 1997 as Entry No. 6719262 in Book 7738 at Page 415, of official records.

Tax Id No.: 22-05-428-003, 22-05-428-004, 22-05-428-024 and 22-05-432-002

**EXHIBIT "B"**  
**DEVELOPMENT AGREEMENT**

A copy of the Development Agreement referred to in the foregoing document follows:

12750542  
04/18/2018 12:46 PM \$0.00  
Book - 10663 Pg 6161-6173  
ADAM GARDINER  
RECORDER, SALT LAKE COUNTY, UTAH  
MILLCREEK OFFICES  
3330 S 1300 E  
MILLCREEK UT 84106  
BY: MZA, DEPUTY - WI 13 P.

**When recorded, return to:**

Millcreek  
Attn: Jeff Silvestrini  
3330 South 1300 East  
Millcreek, UT 84106

**DEVELOPMENT AGREEMENT**

This Development Agreement (this "Agreement") is entered into this 9<sup>th</sup> day of APRIL, 2018, by and between Kasey Kershaw ("Developer"), for the land to be included in or affected by the project located at approximately 1200 East 4500 South in Millcreek Utah, a municipal corporation of the State of Utah ("City"). The Developer and the City are sometimes referred to as the "Parties."

**RECITALS**

**WHEREAS**, Developer owns 1.63 acres of real property located at approximately 1200 East 4500 South in Millcreek, Utah ("Property") and intends to develop the Property. A legal description of the Property is attached hereto as exhibit "A." The Parties desire that the Property be developed in a unified and consistent fashion and establish minimum standards for a new townhome planned-unit development (the "Project") on the Property; and

**WHEREAS**, Developer hereby represent to the Millcreek Council that it is voluntarily entering into this Agreement; and

**WHEREAS**, Developer is willing to restrict the Property in a manner that is in harmony with the objectives of the City's General Plan and long-range development objectives, and which addresses the more specific development issues set forth in this Agreement, and is willing to abide by the terms of this Agreement; and

**WHEREAS**, the City, acting pursuant to its authority under the Utah Municipal Land Use, Development, and Management Act, Utah Code Ann. §10-9a-101, *et seq.*, and its ordinances, resolutions, and regulations, and in furtherance of its land-use policies, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:



1. **Affected Property.** The legal description of the Property contained within the Project boundaries is attached as exhibit "A." No additional property may be added to or removed from this description for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and the City.

2. **Reserved Legislative Powers.** Nothing in this Agreement shall limit the future exercise of police power by the City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land-use plans, policies, ordinances and regulations after the date of this Agreement, provided that the adoption and exercise of such power shall not restrict Developer's vested rights to develop the Project as provided herein. This Agreement is not intended to and does not bind the Millcreek Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

3. **Compliance with City Ordinance Standards.** Developer acknowledges and agrees that nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable ordinances and requirements of the City necessary for development of the Project, including the payment of fees, and compliance with applicable City standards.

4. **Specific Design Conditions.** The Project shall be developed and constructed as set forth in the specific design conditions/criteria set forth in exhibit "B. The Project shall also comply with all requirements set forth in the minutes of the Millcreek Planning Commission and Millcreek meetings on this matter.

5. **Agreement to Run With the Land.** This Agreement shall be recorded in the Office of the Salt Lake County Recorder, shall be deemed to run with the Property, and shall encumber the same; and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property. This Agreement supersedes any and all development agreements that have been executed concerning the Property.

6. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without the consent of the other party. This Agreement shall be binding upon any successors and assigns. This restriction on assignment is not intended to prohibit or impede the sale by Developer.



12. **Limitation on Recovery for Default – No Damages.** No party shall be entitled to any claim for any monetary damages as a result of any breach of this Agreement and each Party waives any claims thereto. The sole remedy available to Developer or and assignee shall be that of specific performance. Notwithstanding such limitation the City may withhold all further reviews, approvals, licenses, building permits and/or other permits for development of the Project in the case of a default by Develop or any assignee.

13. **Term of Agreement.** The term of this Agreement shall be until December 31, 2028 and shall automatically expire on such date.

14. **Force Majeure.** Neither party shall be liable or deemed to be in default for any delay, failure, or interruption in performance under the Agreement resulting, directly or indirectly, from acts of God, acts of civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, failure of transportation, machinery or supplies, vandalism, strikes or other work interruptions, or any other cause beyond the control of either party. Both Parties, however, agree to make good faith efforts to perform under this Agreement in the event of any such circumstance.

15. **Construction.** The Parties stipulate that this Agreement and all agreements or documents incorporated herein shall not be subject to the rule of construction that a written agreement is construed against the Party preparing or drafting that Agreement.

16. **Headings.** The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.


17. **No Waiver.** The failure of either Party to exercise in any respect a right provided for in this Agreement shall not be deemed to be a subsequent waiver of the same right or of any other right.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.


**Millcreek**

  
\_\_\_\_\_  
Jeff Silvestrini, Mayor

ATTEST:

  
\_\_\_\_\_  
Elyse Greiner, CMC City Recorder

**DEVELOPER**

By:  Katelyn Kershaw  
\_\_\_\_\_  
Title: owner

STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 10 day of April, 2018, by Jeff Silvestrini and Elyse Greiner, as the Mayor and the City Recorder, respectively, of Millcreek, a Utah municipality.

Telitha Elyse Greiner  
Notary Public



STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 9 day of April 2018 by Kasey Kershaw.

Telitha Elyse Greiner  
Notary Public

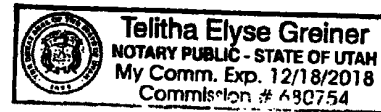


Exhibit A  
Legal Descriptions

APN: 22-05-428-004  
Address: 1236 East 4500 South

Legal Description

BEG 244.2 FT S & 792 FT W FR E 1/4 COR SEC 5, T 2S, R 1E, S L M; S 330 FT; W 66 FT; N 330 FT; E 66 FT TO BEG. LESS STREET. 0.45 AC. 4753-0176 6105-0432 6144-1979

APN: 22-05-428-003  
Address: 1224 East 4500 South

Legal Description

BEG 244.2 FT S & 792 FT W FR E 1/4 COR SEC 5, T 2S, R 1E, S L M; S 330 FT; W 66 FT; N 330 FT; E 66 FT TO BEG. LESS STREET. 0.45 AC. 4753-0176 6105-0432 6144-1979

APN: 22-05-432-002  
Address: 4529 South 1200 East

Legal Description

LOT 1, RILEY SUBDIVISION. 8930-0001

APN: 22-05-428-024  
Address: 1200 East 4500 South

Legal Description

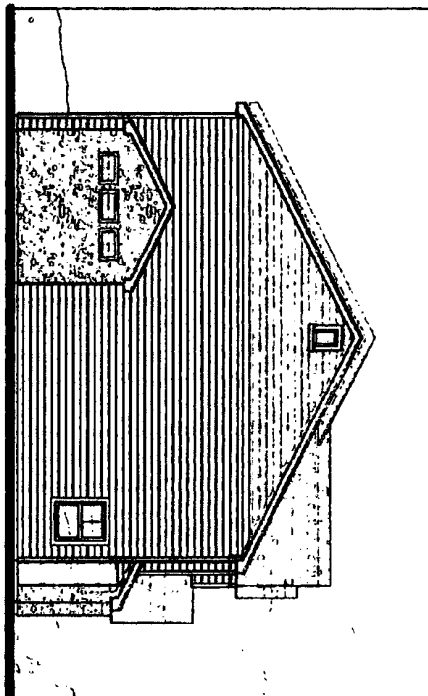
BEG 971 FT W & 3.7 CHNS S FR E 1/4 COR OF SEC 5, T 2S, R 1E, S L M; N 89°54'45" W 75 FT; S 210 FT; S 89°54'45" E 75 FT; N210 FT TO BEG. .30 AC M OR L. 5341-1083 5558-1727 6013-2680 8716-3758 9596-9853

## Exhibit B

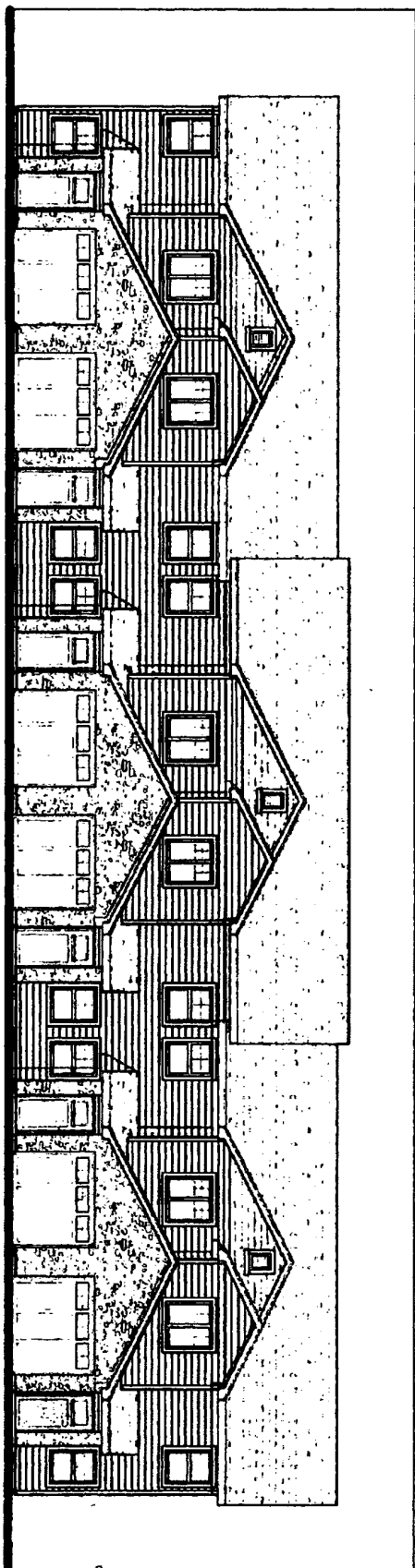
Developer agrees to limit development on the Property as follows:

1. The Project will be developed as a Planned Unit Development, limited to 22 two-bedroom townhome units. The Project will be constructed as depicted in Exhibits C, D, and E.
2. No structures in the Project will exceed 31 feet in height as measured from original ground surface, as defined by Section 19.04.095 of the Millcreek Code.
3. All structures in the Project will be designed and constructed as depicted in Exhibit C, and shall incorporate a traditional design featuring gables, a varied roofline, architectural relief and fenestration on the sides of the structures facing 4500 South or 1200 East, and a mix of materials, consisting, at a minimum, of the following:
  - a. Brick or stone veneer shall compose at least 17 percent of front and side elevations of the structures in the Project.
  - b. Gables must incorporate a change of materials, as depicted in Exhibit C.
  - c. No structure in the Project will utilize aluminum or vinyl siding, except for use as soffit or fascia material.
4. The Project shall be subject to recorded codes, covenants, and restrictions that have been approved by the City and all units that are rented shall have a rental agreement that has been approved by the City that among other things limit each unit to two motorized vehicles per unit, with the option of an additional motorized vehicle if an accessory garage is leased.
5. The recorded codes, covenants, and restrictions and rental agreements shall limit the uses in the accessory garages to covered parking or storage for the residents in the Project that prohibits commercial uses, including commercial storage.
6. The recorded codes, covenants, and restrictions and rental agreements shall provide that residents and guests will not park on-street on either side of 1200 East. The recorded codes, covenants, and restrictions and rental agreements shall contain a remedy for violations that is acceptable to the City.
7. Accessory garages will only be leased to homeowners or leaseholders in the Project.

EXHIBIT C



BK 10663-PG 6169

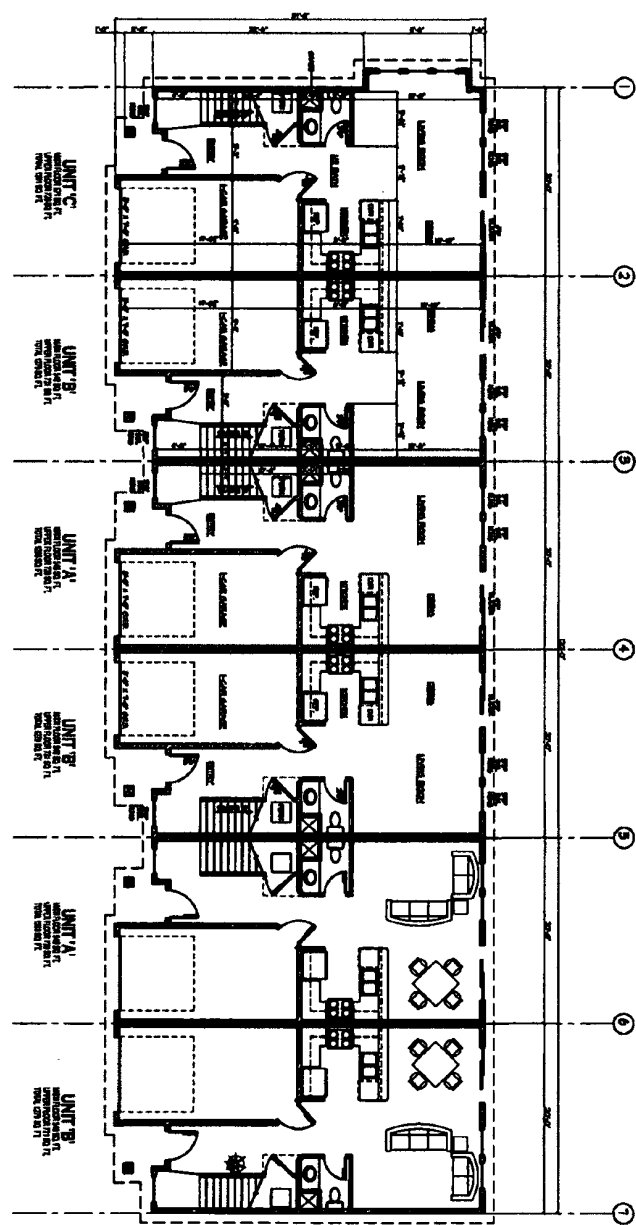


Kershaw Townhomes

Millcreek, Utah

BK 10755 PG 8610



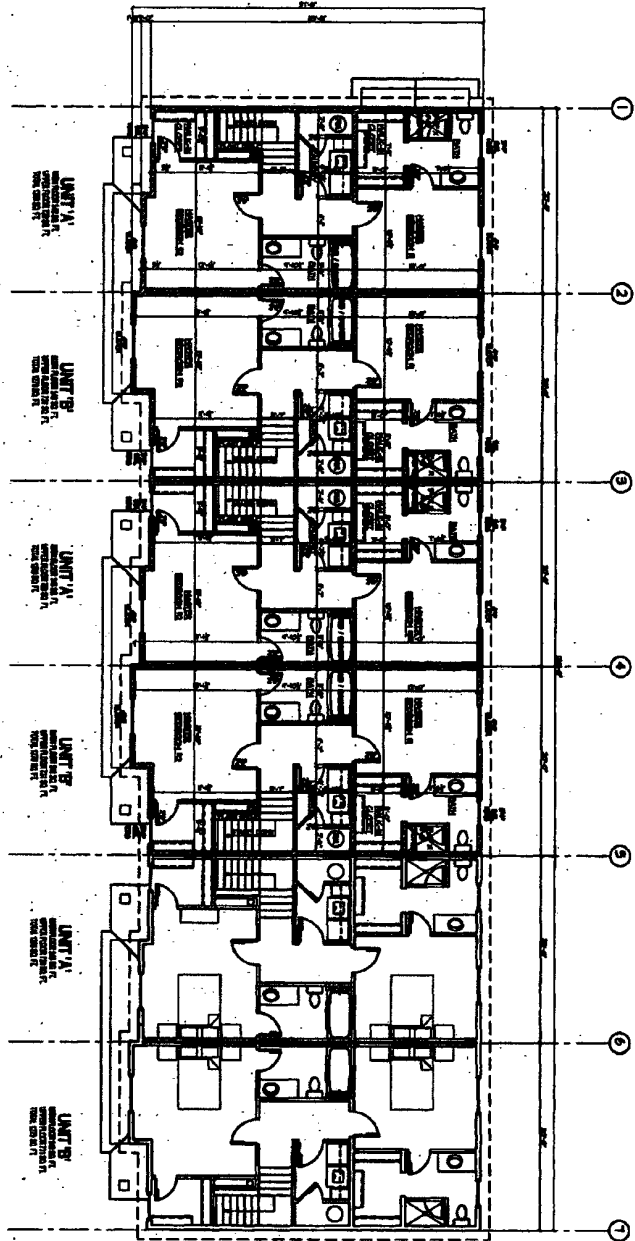


MAIN FLOOR PLAN  
SCALE 3/8" = 1'-0"

<b>MAIN FLOOR PLAN</b>	
<b>REDLINE DESIGN</b>	
DATE: 08-14-18	BY: JST
CHECKED BY: [Signature]	
PROJECT: [Project Name]	
SHEET NO. 1	

BK 10663 PG 6170

BK 10755 PG 8611

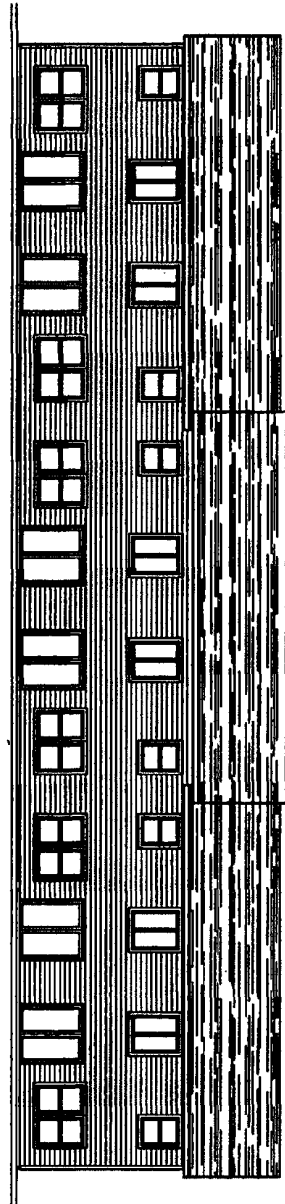


UPPER FLOOR PLAN  
SCALE 3/16"=1'-0"

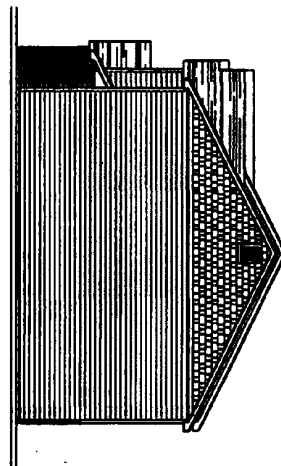
<b>UPPER FLOOR PLAN</b>	
<b>INDICATING DESIGN</b>	
<small>THIS IS A 100% RENT UNIT, IN ACCORDANCE WITH THE CITY OF CHICAGO ORDINANCES.</small>	
<small>DATE: 05-15-84</small>	<small>BY: [Signature]</small>
<b>2</b>	

BK 10663-PG 6174

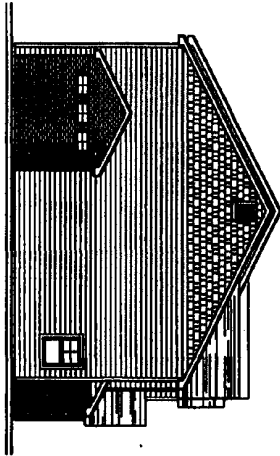
BK 10755 PG 8612



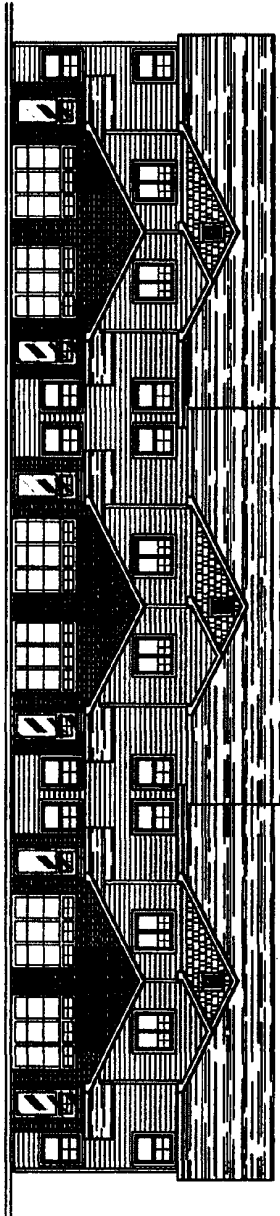
BACK EXTERIOR ELEVATION  
SCALE 3/16"=1'-0"



SIDE EXTERIOR ELEVATION  
SCALE 3/16"=1'-0"

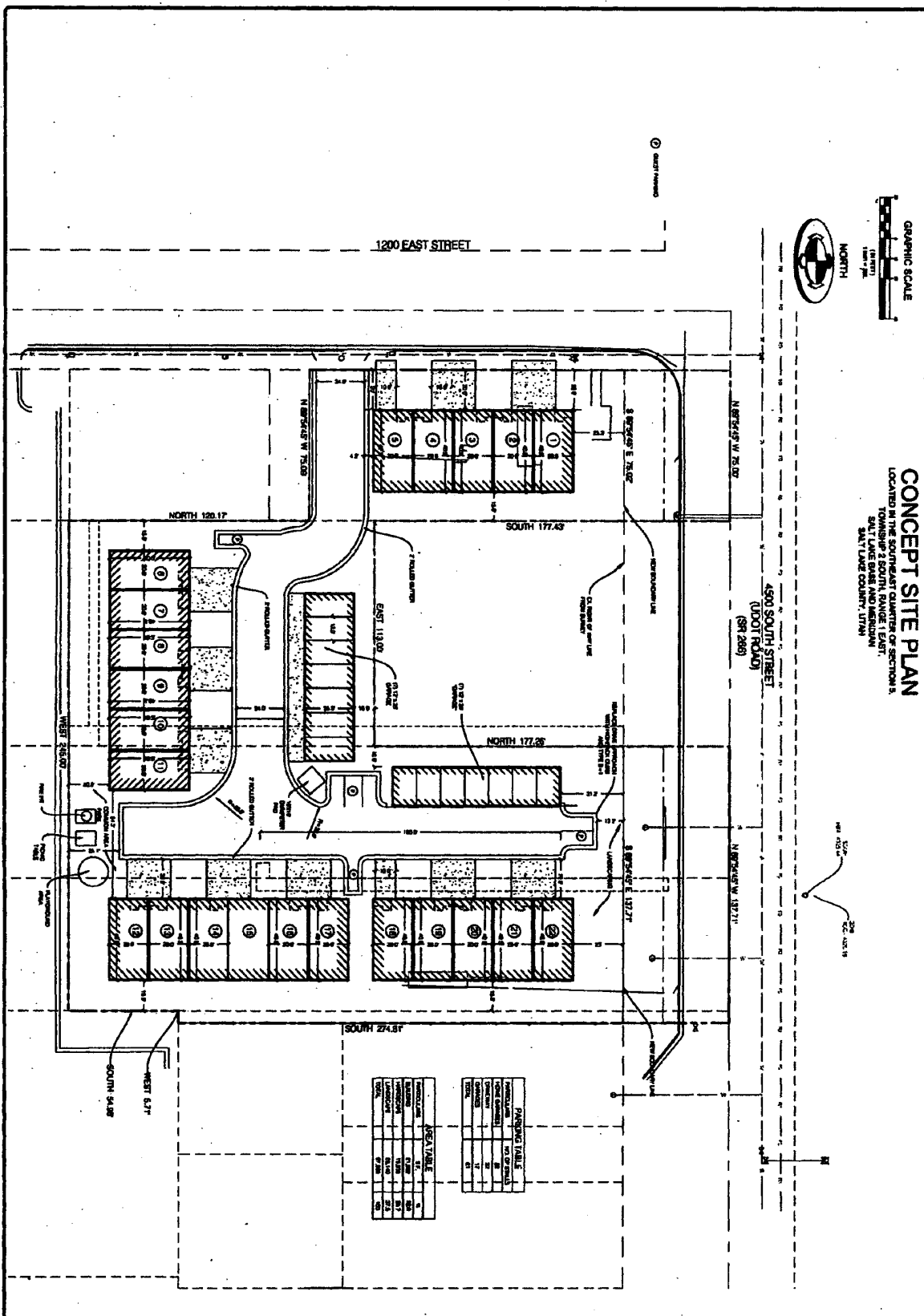


SIDE EXTERIOR ELEVATION  
SCALE 3/16"=1'-0"



FRONT EXTERIOR ELEVATION  
SCALE 3/16"=1'-0"

<b>EXTERIOR ELEVATIONS</b>	
<b>INDICATING DESIGN</b>	
DATE: 10-10-10	
DRAWN BY: [Name]	
CHECKED BY: [Name]	
PROJECT: [Name]	
SHEET: 3	



**CONCEPT SITE PLAN**  
 LOCATED IN THE SOUTHWEST QUARTER OF SECTION 1,  
 TOWNSHIP 2 SOUTH, RANGE 1 EAST,  
 SALT LAKE BASIN AND MOUNTAIN  
 SALT LAKE COUNTY, UTAH

PARKING TABLE	
TYPE	NO. OF SPACES
STANDARD	17
COMPACT	17
TOTAL	34

RESIDENTIAL TABLE	
UNIT NO.	AREA (SQ. FT.)
1	1,100
2	1,100
3	1,100
4	1,100
5	1,100
6	1,100
7	1,100
8	1,100
9	1,100
10	1,100
11	1,100
12	1,100
13	1,100
14	1,100
15	1,100
16	1,100
17	1,100
18	1,100
19	1,100
20	1,100
21	1,100
22	1,100
23	1,100
24	1,100
25	1,100
26	1,100
27	1,100
28	1,100
29	1,100
30	1,100
31	1,100
32	1,100
33	1,100
34	1,100
35	1,100
36	1,100
37	1,100
38	1,100
39	1,100
40	1,100
41	1,100
42	1,100
43	1,100
44	1,100
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91	1,100
92	1,100
93	1,100
94	1,100
95	1,100
96	1,100
97	1,100
98	1,100
99	1,100
100	1,100

<p>PROJECT 1 OF 1</p>	<p>TOWN HOMES APPROX 4500 S 1200 E MILCREEK, UTAH</p>		<p><b>BENCHMARK ENGINEERING &amp; LAND SURVEYING</b></p> <p>100 SOUTH 400 WEST, SUITE 100 SALT LAKE CITY, UTAH 84115 PHONE: (801) 466-1111 FAX: (801) 466-1112 WWW.BENCHMARKSURVEYING.COM</p>
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BK 10663-PG-6173

BK 10755 PG 8614