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1000 West Wilshire, Suite 308
Oklahoma City, Oklahoma 73116
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**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR SOMERS POINTE, A RESIDENTIAL
COMMUNITY TO THE CITY OF OKLAHOMA CITY,
CANADIAN COUNTY, OKLAHOMA**

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TABLE OF CONTENTS

	<u>Page</u>
Article 1 Creation of the Community	5
1.1 Purpose and Intent	5
1.2 Binding Effect and Term	6
1.3 Governing Documents	6
Article 2 Definitions	7
2.1 "Articles"	7
2.2 "Architectural Review Committee"	7
2.3 "Association"	7
2.4 "Base Assessment"	7
2.5 "Board of Directors" or "Board"	7
2.6 "Builder"	7
2.7 "Bylaws"	7
2.8 "Certificate of Architectural Compliance"	7
2.9 "Class "B" Control Period"	8
2.10 "Common Area"	8
2.11 "Common Expenses"	8
2.12 "Declarant"	8
2.13 "Dedicated Property"	8
2.14 "Design Review Board"	8
2.15 "Design Review Guidelines"	8
2.16 "Development Plan"	8
2.17 "ERC"	9
2.18 "Lot"	9
2.19 "Member"	9
2.20 "Mortgage"	9
2.21 "Mortgagee"	9
2.22 "Owner"	9
2.23 "Person"	9
2.24 "Plans"	9
2.25 "Properties"	9
2.26 "Record," "Recording," or "Recorded"	9
2.27 "Series"	9
2.28 "Series Assessments"	10
2.29 "Series Board Member"	10
2.30 "Series Common Area"	10
2.31 "Series Expenses"	10
2.32 "Special Assessment"	10

2.33	"Specific Assessment"	10
2.34	"Supplemental Declaration"	10
2.35	"Terra Verde"	10
2.36	"Somers Pointe"	10
2.37	"Governing Documents"	10
2.38	"Somers Pointe-Wide Standard"	10
2.39	"Use Restrictions and Rules"	11

Article 3 Use and Conduct 11

3.1	Framework for Regulation	11
3.2	Rule Making Authority	11
3.3	Owners' Acknowledgment and Notice to Purchasers	12
3.4	Protection of Owners and Others	12

Article 4 Architecture and Landscaping 13

4.1	General	13
4.2	New Construction	14
4.3	Modifications	14
4.4	No Waiver of Future Approvals	15
4.5	Variances	15
4.6	Limitation of Liability	15
4.7	Certificate of Compliance	16
4.8	Fees; Assessments	16
4.9	Declarant and Design Review Board Addresses	16

Article 5 Maintenance and Repair 17

5.1	Maintenance of Lots	17
5.2	Maintenance of Series Property	17
5.3	Responsibility for Repair and Replacement	17

Article 6 The Association and its Members 18

6.1	Function of Association	18
6.2	Membership	18
6.3	Voting	18
6.4	Series Voting	19

Article 7 Association Powers and Responsibilities 21

7.1	Acceptance and Control of Association Property	21
7.2	Maintenance of Common Areas	21
7.3	Insurance	22
7.4	Compliance and Enforcement	26
7.5	Implied Rights; Board Authority	27
7.6	Indemnification of Officers, Directors and Others	28
7.7	Security	28
7.8	Powers of the Association Relating to Series	29

7.9	Provision of Services	29
7.10	Facilities and Services Open to the Public	29
7.11	Association's Responsibility with Respect to Transfer of Lots	29

Article 8 Association Finances 30

8.1	Budgeting and Allocating Common Expenses	30
8.2	Budgeting and Allocating Series Expenses	31
8.3	Budgeting for Reserves	32
8.4	Special Assessments	32
8.5	Specific Assessments	32
8.6	Authority to Assess Owners; Time of Payment	33
8.7	Obligation for Assessments	33
8.8	Lien for Assessments	34
8.9	Exempt Property	35
8.10	Limitation on Increases of Assessments	35

Article 9 Expansion of Somers Pointe 36

9.1	Expansion by Declarant	36
9.2	Expansion by the Association	36
9.3	Additional Covenants and Easements	36
9.4	Effect of Recording Supplemental Declaration	37
9.5	Condominium Conversions	37

Article 10 Additional Rights Reserved to Declarant 37

10.1	Withdrawal of Property	37
10.2	Marketing and Sales Activities	37
10.3	Right to Develop	38
10.4	Right to Approve Changes in Standards	38
10.5	Right to Transfer or Assign Declarant Rights	38
10.6	Exclusive Rights to Use Name of Development	38
10.7	Termination of Rights	39

Article 11 Easements 39

11.1	Easements in Common Area	39
11.2	Easements of Encroachment	40
11.3	Easements for Utilities, Etc.	41
11.4	Easements to Serve Additional Property	41
11.5	Easements for Maintenance, Emergency and Enforcement	42
11.6	Easements for Irrigation, Detention/Retention Maintenance and Flood Water	42
11.7	Easements for Drainage Areas	43
11.8	Easement for Screening and Fencing	43

Article 12 Series Common Areas 44

12.1	Purpose	44
12.2	Designation	44

12.3	Use by Others	44
Article 13 Dispute Resolution and Limitation on Litigation		45
13.1	Consensus for Association Litigation	45
13.2	Dispute Resolution and Enforcement	45
Article 14 Mortgagee Provisions		46
14.1	Notices of Action	46
14.2	Special FHLMC Provision	46
14.3	Other Provisions for First Lien Holders	47
14.4	Amendments to Documents	47
14.5	No Priority	48
14.6	Notice to Association	48
14.7	Failure of Mortgagee to Respond	49
14.8	Construction of Article 14	49
Article 15 Relationship with City of Oklahoma City, Canadian County, and Media		49
Article 16 Changes in Ownership of Lots		49
Article 17 Changes in Common Areas		50
17.1	Condemnation	50
17.2	Partition	50
17.3	Transfer or Dedication of Common Area	50
Article 18 Amendment of Declaration		51
18.1	By Declarant	51
18.2	By Members	51
18.3	Validity and Effective Date	51
18.4	Exhibits	52

Table of Exhibits

- Exhibit "A" – Real Property
- Exhibit "B" – Real Property Subject to Annexation or Addition
- Exhibit "C" – Use Restrictions and Rules
- Exhibit "D" – Bylaws of Somers Pointe Property Owners' Association, Inc.
- Exhibit "E" – Calculation of Assessments
- Exhibit "F" – Design Review Guidelines

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR SOMERS POINTE, A RESIDENTIAL
COMMUNITY TO CITY OF OKLAHOMA CITY, CANADIAN COUNTY,
STATE OF OKLAHOMA**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SOMERS POINTE, A RESIDENTIAL COMMUNITY TO THE CITY OF OKLAHOMA CITY, CANADIAN COUNTY, OKLAHOMA is made this 21st day of October, 2004, by ERC LAND DEVELOPMENT GROUP, LLC, an Arkansas limited liability company and TERRA VERDE DEVELOPMENT, L.L.C., an Oklahoma limited liability company.

PART ONE: INTRODUCTION TO THE COMMUNITY

The Declarant has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance, and preservation of Somers Pointe as a quality residential community.

This Declaration contemplates the existence, within Somers Pointe, of one or more distinct areas, collectively referred to herein as "Series" and individually as "Somers Park," "Somers Village," "Somers Ridge" and "Somers Villas," as well as other individually owned property. The Association is a homeowners association comprised of all Owners of Lots in Somers Pointe.

The Association has the power under the Governing Documents to establish standards for conduct and activities for the property within Somers Pointe. Another component of the Somers Pointe development is the Design Review Board, which has jurisdiction over all matters of design review for all Lots within Somers Pointe.

Article 1 Creation of the Community
1.1 Purpose and Intent.

ERC, as the owner of the real property described in Exhibit "A," and the Declarants as the owners of the real property described at Exhibit "B," intend by the Recording of this Declaration to create a general plan of development for the planned community known as Somers Pointe. This Declaration provides a flexible and reasonable procedure for future expansion of Somers Pointe to include additional real property as Declarant deems appropriate and provides for the overall development, administration, maintenance and preservation of the real property now and hereafter comprising Somers Pointe. An integral part of the development plan is the creation of the Association to be comprised of all Owners of Lots in Somers Pointe, to own, operate and/or maintain various Common Areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

This Declaration does not and is not intended to create a unit ownership estate within the meaning of 60 O.S. §501 *et seq.* This document does and is intended to create a real estate development and owners association within the meaning of 60 O.S. §851 *et seq.*

1.2 Binding Effect and Term.

The real property described in Exhibit "A" and any of the Exhibit "B" additional real property which is made a part of Somers Pointe in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the land and title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Somers Pointe, their respective heirs, successors, successors-in-title, and assigns.

This Declaration shall remain in effect for a term of forty (40) years from the date Recorded. Declarant, the Association, any Owner and their respective legal representatives, heirs, successors, and assigns may enforce it. After such forty (40) year period, the Declaration's term shall automatically extend for successive ten (10) year periods unless seventy-five percent (75%) of the then Owners sign and Record, within the year preceding any extension, an instrument which terminates, adds to, or amends, in whole, or in part, this Declaration.

If any provision of this Declaration would be unlawful, void, or voidable by reason of applicability of the rule against perpetuities, such provision shall expire twenty-one (21) years after the death of the last survivor of the now living descendants of the youngest living President of the United States having a descendant. Nothing in this Section shall be construed to permit termination of any easement, covenant, restriction, or obligation created in this Declaration without the consent of the holder of such easement.

1.3 Governing Documents.

The Governing Documents create a general plan of development for Somers Pointe which may be supplemented by additional covenants, restrictions, and easements applicable to the property within Somers Pointe. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, and/or the provisions of any other articles of incorporation, Bylaws, or rules or policies, the Declaration shall control.

Nothing in this Section shall preclude the Recording of a Supplemental Declaration or other instrument applicable to any portion of Somers Pointe containing additional restrictions or more restrictive provisions. However, any Person who seeks to Record any instrument applicable to Somers Pointe must obtain Declarant's written consent so long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by Recorded consent signed by Declarant, so long as Declarant owns any of the Properties.

All provisions of the Governing Documents shall apply to all Owners and to all occupants of all Lots, as well as their respective tenants, guests and invitees. Any lease of a Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of Governing Documents.

If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications.

Article 2 Definitions.

The terms used in the Governing Documents shall be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below. If not defined herein, capitalized terms shall be defined as set forth in the Declaration, as applicable.

2.1 "**Articles**": The Certificate of Incorporation, as amended from time to time, for the Association filed with the Oklahoma Secretary of State on April 15, 2004.

2.2 "**Architectural Review Committee**": The successor to any Design Review Board, if so assigned by the applicable Design Review Board.

2.3 "**Association**": The Somers Pointe Property Owners' Association, Inc., an Oklahoma not for profit corporation, its successors or assigns.

2.4 "**Base Assessment**": Assessments levied on all Lots subject to assessment under Article 8 of this Declaration to fund Common Expenses for the general benefit of all Lots.

2.5 "**Board of Directors**" or "**Board**": The body responsible for administration of the Association as provided in the Governing Documents.

2.6 "**Builder**": Any Person approved by the Declarant who purchases Lots in bulk (multiple) fashion for the purpose of building residential dwellings which will be sold to the general public. The Builders shall not be responsible for Base Assessments on a Lot until the earlier of the date of issuance of a certificate of occupancy by the City of Oklahoma City for such Lot or the second anniversary of filing of the plat for the applicable Series within Somers Pointe.

2.7 "**Bylaws**": The Governing Document appearing at Exhibit "D" to this Declaration, as amended.

2.8 "**Certificate of Architectural Compliance**": Certificate issued pursuant to Section 4.7 to this Declaration.

2.9 **"Class "B" Control Period"**: The period of time during which the Class "B" Member is entitled to exercise, among other things, any addition or annexation rights under Section 9.1 to this Declaration.

2.10 **"Common Area"**: All real and personal property, including, but not limited to, easements and Series Common Area, if any, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

2.11 **"Common Expenses"**: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not be limited to those expenses relative to the care of Common Area. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless approved by Members representing a majority of the total Class "A" votes of the Association.

2.12 **"Declarant"**: Collectively, ERC and Terra Verde, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant. For the purpose of exercising any development right, amendment right, or other right reserved to a Declarant, Declarant shall mean ERC, Terra Verde, or both as the context implies. For example, when a Governing Document refers to a declarant within the Somers Park Series, such reference shall mean ERC exclusively. Further, when a Governing Document refers to a declarant within the Somers Village, Somers Ridge, or Somers Villas Series, such reference shall mean Terra Verde exclusively. Any exercise of any development right, amendment right, or other right reserved to a declarant shall apply only to such Series over which the declarant governs, unless such exercise occurs jointly by both Declarants.

2.13 **"Dedicated Property"**: Real property dedicated by recorded instrument to a public authority and/or utility for public use.

2.14 **"Design Review Board"**: Generally, the entity with jurisdiction over the approval and denial of all applications for new construction and modifications of existing construction. Specifically, each Series contains its own Design Review Board, as provided under Section 4 to this Declaration.

2.15 **"Design Review Guidelines"**: The architectural rules, policies, and requirements governing new construction and modifications within the Properties as administered by the applicable Design Review Board.

2.16 **"Development Plan"**: The land use plan for the development of Somers Pointe approved by the City of Oklahoma City, Oklahoma and recorded with the County Clerk of Canadian County, Oklahoma, as it may be amended, which may include all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Inclusion of real

property on the Development Plan shall not, under any circumstances, obligate Declarant to subject such real property to this Declaration, nor shall the omission of real property described in Exhibit "B" from the Development Plan bar later submission of such real property to this Declaration as provided in Article 9 of this Declaration.

2.17 **"ERC"**: ERC Land Development Group, L.L.C., an Arkansas limited liability company, its successors and assigns.

2.18 **"Lot"**: Each of the Lots depicted on the plat Recorded with the County Clerk of Canadian County, Oklahoma for the Series.

2.19 **"Member"**: A Person subject to membership in the Association pursuant to Section 6.2 of this Declaration. Every Owner shall be a Member, subject to the limitations on co-Owners as provided in this Declaration and the Bylaws.

2.20 **"Mortgage"**: A mortgage, a deed to secure debt, or any other form of security instrument affecting title to any Lot.

2.21 **"Mortgagee"**: A beneficiary or holder of a Mortgage.

2.22 **"Owner"**: One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

2.23 **"Person"**: A natural person, a corporation, a partnership, a trustee, a limited liability company, or any other legal entity.

2.24 **"Plans"**: Collectively, the elevation, drawings, application and other documents prepared by an Owner, or as applicable a Builder, to a Design Review Board.

2.25 **"Properties"**: The real property described within Exhibits "A" and "B" to this Declaration.

2.26 **"Record," "Recording," or "Recorded"**: To file, filing, or filed of record in the official records of the County Clerk of Canadian County, State of Oklahoma. The date of Recording shall refer to that time at which a document, map, or plat is Recorded.

2.27 **"Series"**: A group of more than one Lot designated as a distinct area for one or more of the following purposes: (a) sharing Series Common Areas, (b) receiving other benefits or services from the Association which are not provided to all Lots within Somers Pointe, or (c) electing a Series Board Member as provided in Section 6.4 of this Declaration. A Series may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Lots within a particular Series, then

the benefited Lots shall constitute a sub-Series for purposes of determining and levying Series Assessments for such benefits or services.

2.28 "**Series Assessments**": Assessments levied against the Lots in a particular Series or multiple Series to fund Series Expenses, as described in Section 8.2 of this Declaration.

2.29 "**Series Board Member**": Such Association board member elected from within a Series for representation of such Series interests on the Association Board.

2.30 "**Series Common Area**": A portion of the Common Area primarily benefiting one or more, but less than all, Series, as more particularly described in Article 12 of this Declaration.

2.31 "**Series Expenses**": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of Lots within a particular Series or multiple Series, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may specifically be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Series or multiple Series.

2.32 "**Special Assessment**": Assessments levied in accordance with Section 8.4 of this Declaration.

2.33 "**Specific Assessment**": Assessments levied in accordance with Section 8.5 of this Declaration.

2.34 "**Supplemental Declaration**": An instrument Recorded pursuant to Article 9 of this Declaration, which accomplishes one or more of the following purposes: (a) subjects additional Exhibit "B" property to this Declaration; (b) designates Series or Series Common Areas; or (c) imposes, expressly or by reference, additional restrictions and obligations on the real property described in such instrument.

2.35 "**Terra Verde**": Terra Verde Development, L.L.C., an Oklahoma limited liability company, its successors and assigns.

2.36 "**Somers Pointe**": The real property described in Exhibit "A," together with such additional Exhibit "B" property as is subjected to this Declaration in accordance with Article 9 of this Declaration.

2.37 "**Governing Documents**": A collective term referring to this Declaration and any applicable Supplemental Declaration, the Bylaws, the Articles, the Use Restrictions and Rules and any Design Review Guidelines promulgated in accordance with Section 4 of this Declaration, as amended.

2.38 "**Somers Pointe-Wide Standard**": The standard of conduct, maintenance, or other activity generally prevailing throughout Somers Pointe. Such standard shall be established initially by Declarant and may be more specifically defined in the Use Restrictions and Rules,

Design Review Guidelines, and in Board resolutions, the budget, levels of maintenance and the Association's operation of Common Areas and applicable facilities.

2.39 "Use Restrictions and Rules": The initial use restrictions and rules attached hereto as Exhibit "C" and made a part hereof, as supplemented, modified or repealed pursuant to Article 3 of this Declaration.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use, conduct, maintenance, and architecture at Somers Pointe give the community its identity and make Somers Pointe a place people want to call "home." The standards are more than simply rules. This Declaration establishes procedures for rulemaking as a dynamic process which allows the community standards to evolve as the community changes and grows and as technology and public perception change.

Article 3 Use and Conduct.

3.1 Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for Somers Pointe, a framework of affirmative and negative covenants, easements, and restrictions which govern Somers Pointe. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technologies which inevitably will affect Somers Pointe, its Owners and residents. This Article establishes procedures for modifying and expanding the Use Restrictions and Rules. Any modification or expansion shall be effective whether or not Recorded. Each Owner is charged with determining the scope, terms, and nature of any restrictions, rules, and Design Review Guidelines pertaining to Somers Pointe, whether or not such documents are Recorded, provided such document is adopted pursuant to the terms of this Declaration.

3.2 Rule Making Authority.

(1) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and the Members, the Board may modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules. The Use Restrictions and Rules will apply to Lots, Common Areas, Owners, Persons, Series, Series Common Areas, and the Association. The Board shall send notice by mail to all Owners concerning any such proposed action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (3) below, unless disapproved at a meeting by Members representing more than fifty percent (50%) of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Board shall have

no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition of the Members as required for special meetings in the Bylaws.

(2) Alternatively, the Members, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules by a vote of Members representing more than fifty percent (50%) of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(3) In an effort to assist any Owner in discharging their duty of inquiry under 3.1 of this Declaration, at least thirty (30) days prior to the effective date of any action taken under subsections (1) or (2) of this Section, the Board shall send a copy of the new rule or explanation of any changes to the Use Restrictions and Rules to each Owner specifying the effective date which, in no event, will be sooner than thirty (30) days from the date of adoption. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee. Failure to affirmatively provide a copy of the new rule or explanation of any changes in the Use Restrictions and Rules, unless an Owner, Member, or Mortgagee expressly requests in writing a copy of the same, shall not affect the validity or effect of such rule or explanation thirty (30) days after adoption.

3.3 Owners' Acknowledgment and Notice to Purchasers.

All Owners are hereby given notice that use of their Lots and the Common Area is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of such Owner's Lot can be affected by this provision and that the Use Restrictions and Rules may change from time to time. All purchasers of Lots are on notice that changes may have been adopted by the Association. Copies of the current Use Restrictions and Rules may be obtained from the Association as provided above.

3.4 Protection of Owners and Others.

Except as may be contained in this Declaration either initially or by amendment or in the Use Restrictions and Rules and the Design Review Guidelines, all policies and regulations shall comply with the following provisions:

(1) **Similar Treatment.** Similarly situated Owners shall be treated similarly; provided, the Design Review Guidelines and Use Restrictions and Rules may vary by Series.

(2) **Displays.** The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Lots of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling. No rules shall unreasonably regulate the content of political signs. The rules may regulate the time, place and manner of posting such signs (including design criteria).

(3) **Household Composition.** No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Lot on the basis of the size and facilities of the Lot and such occupants' fair use of the Common Area.

(4) **Activities within Dwellings.** No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association, in the Association's sole discretion, may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Lots, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(5) **Alienation.** No rule shall prohibit leasing or transfer of any Lot, or require consent of the Association or Board for leasing or transfer of any Lot; provided, the Association or the Board may require a minimum lease term of up to twelve (12) months. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Lot greater than an amount reasonably based on the costs to the Association of administering that lease or transfer.

(6) **Abridging Existing Rights.** No rule shall require an Owner to dispose of personal property that was in or on a Lot prior to the adoption of such rule and which was in compliance with all rules previously in force. This dispensation shall apply only for the duration of such Owner's ownership of the Lot personally, and this right shall not run with title to any Lot.

(7) **Reasonable Basis.** No rule may prohibit any activity, condition, or conduct unless there a reasonable basis exists for the enactment of such rule. For purposes of this subsection, reasonable basis may include, but not be limited to, restrictions as to time, place, and manner of activity or conduct, or concerns relating to safety, fair use of Common Area, cost, aesthetics, or the goals of the Development Plan.

(8) **Reasonable Rights to Develop.** No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop the Properties.

The limitations in subsections (1) through (8) of this Section shall only limit rulemaking authority exercised under Section 3.2 of this Declaration; they do not limit amendments to this Declaration adopted in accordance with Article 18 of this Declaration or rights retained by the Declarant under Section 9.1 of this Declaration.

Article 4 Architecture and Landscaping.

4.1 General.

The applicable Design Review Board shall have primary jurisdiction over all matters of design review for property in Somers Pointe. A Design Review Board exists for each Series

within the Properties and retains exclusive architectural approval oversight within its Series. For example, the Somers Park Design Review Board oversees exclusively the architectural approval applications for Lots within the Somers Park Series. As used within these Governing Documents, the generic term "Design Review Board" shall refer to the specific design review board vested with exclusive oversight over the Series to which the context applies. The Design Review Board may, however, delegate some of its powers or responsibilities, with respect to design review for Somers Pointe to the Association. Unless and until such time as the Design Review Board delegates all or a portion of its reserved rights to the Association, the Association shall have no jurisdiction over architectural matters. To assist with an Owner's navigation of the design review process and standards, the Design Review Board adopts the Design Review Guidelines as initially set out in Exhibit "F," which may be amended from time to time as provided in Section 1.3 to the Design Review Guidelines. ERC shall act as the Somers Park Design Review Board and Terra Verde shall act as the Somers Village, Somers Villas, and Somers Ridge Design Review Boards until the earlier of: (a) the termination of the Class "B" Control Period; or (b) the Declarant by Recorded instrument assigns oversight of the Design Review Board to the Association.

4.2 New Construction.

The Design Review Board shall have exclusive oversight of all new construction within Somers Pointe, including but not limited to those elements defined as modifications in the Design Review Guidelines. So long as Declarant owns any portion of the Properties, Declarant, by agreement with the Design Review Board, may establish a higher standard of design review for initial construction for all or a portion of Somers Pointe than that which is or was applicable to other portions of Somers Pointe. In such event, Declarant shall administer the design review standards that exceed those imposed by the Design Review Board in accordance with procedures, policies, and standards agreed upon by Declarant and the Design Review Board.

4.3 Modifications.

The Design Review Board shall have exclusive oversight of all modifications to existing construction within Somers Pointe, including but not limited to all exterior improvements, structures, and any appurtenances thereto or components thereof of every type and kind, and all landscaping features, including but not limited to buildings, outbuildings, swimming pools, tennis courts, patios, patio covers, awnings, solar panels, painting or other finish materials on any visible surface, additions, walkways, sprinkler systems, garages, driveways, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, gardens, windbreaks, plantings, trees, shrubs, flowers, vegetables, sod, gravel, bark, exterior lighting, poles, sporting fixtures such as basketball goals, temporary sporting features such as temporary basketball goals, signs, exterior tanks, exterior air conditioning units, cooling, heating, and water softening equipment (collectively, modifications). If the Design Review Board delegates to the Association its design review authority for exterior alterations of existing improvements or planting or removal of landscaping, the Association shall establish an Architectural Review Committee. The structure, policies, procedures, and standards set forth in this Section shall apply to the Architectural

Review Committee unless the Design Review Board otherwise establishes or modifies such matters.

4.4 No Waiver of Future Approvals.

Each Owner acknowledges that the members of the Design Review Board reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of this Declaration or the Design Review Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed activity on a Lot within the scope of this Article until such activities have been completed, in which case it may be necessary to require changes to the improvements involved. Approval of applications or Plans for any activities done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right of the Design Review Board to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

4.5 Variances.

The Design Review Board may authorize variances from compliance with the Design Review Guidelines: (a) in narrow circumstances where the design meets the intent of the provision sought to be varied and where granting of the variance would enhance design innovation and excellence, or (b) when circumstances such as topography, natural obstructions, or aesthetic or environmental considerations so require, but only in accordance with duly adopted rules and regulations. A variance may be granted only when special circumstances so dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, issuance of any permit, or the terms of any financing shall not constitute hardships.

4.6 Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of Somers Pointe; they do not create any duty to any Person. Review and approval of any application pursuant to this Article are made on the basis of aesthetic considerations only, and the Design Review Board shall not bear any responsibility for ensuring (i) structural integrity or soundness of approved construction or modifications, (ii) compliance with building codes and other governmental requirements; or (iii) conformity of quality, value, size or design among Lots.

Declarant, the Design Review Board, the Association, the Board, and any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work, or for any defects in plans revised or approved hereunder, or for any injury, damages, or loss arising out of the manner or quality of approved construction on or

modifications to any Lot. In all matters, the Design Review Board shall be defended and indemnified by the Association as provided in Section 7.6 of this Declaration.

4.7 Certificate of Compliance.

Any Owner may request that the Reviewer issue a Certificate of Architectural Compliance certifying that there are no known violations of this Declaration. The Association shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such Certificate of Architectural Compliance. Issuance of a Certificate of Architectural Compliance shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of the Certificate of Architectural Compliance.

4.8 Fees; Assistance.

The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. Declarant, the Design Review Board and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

4.9 Declarant and Design Review Board Addresses.

For purposes of this Article 4, Owners or, as applicable, Builders shall submit applications to the following applicable addresses in the following forms:

Somers Park Series Design Review Board

Attn: Architectural Application
1000 West Wilshire Avenue, Suite 308
Oklahoma City, Oklahoma 73116

Somers Village, Somers Ridge, Somers Villas Design Review Boards

Attn: Architectural Application
1320 N. Porter
Norman, Oklahoma 73071

Any change in the above notice addresses shall be given through a filing in the real property records of Canadian County, State of Oklahoma designated a "Change of Address for Design Applications" providing both the entity and new address for submission of applications.

Article 5 Maintenance and Repair.
5.1 Maintenance of Lots.

Each Owner shall maintain such Owner's Lot, including all landscaping and improvements comprising the Lot, in a manner consistent with Governing Documents, the Somers Pointe-Wide Standard and all applicable covenants, unless, such maintenance responsibility is otherwise assumed by or assigned to the Association or a Series pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

5.2 Maintenance of Series Common Areas.

The Association shall maintain all Common Areas and Series Common Areas, including any improvements appurtenant thereto in a manner consistent with the Governing Documents, the Somers Pointe-Wide Standard and all applicable covenants.

Upon resolution of the Board, the Owners within each Series shall be responsible for paying, through Series Assessments, the costs of operating, maintaining and insuring certain portions of the Series Common Area within or adjacent to such Series. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Series and adjacent public roads, private streets within the Series, and lakes or ponds within the Series, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Series which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Series, in addition to that designated by any Supplemental Declaration, either by agreement with the Series or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Somers Pointe-Wide Standard. All costs of maintenance pursuant to this Section shall be assessed as a Series Assessment only against the Lots within the Series for which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

5.3 Responsibility for Repair and Replacement.

Unless otherwise specifically provided in Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Somers Pointe-Wide Standard.

By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on such Owner's Lot, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising such Owner's Lot, the Owner shall proceed promptly to repair or to

reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 4 of this Declaration. Alternatively, the Owner shall clear the Lot and maintain it in a neat and attractive, landscaped condition consistent with the Somers Pointe-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section shall apply to any Series responsible for its property within the Series in the same manner as if the Series were an Owner and the common property was a Lot. Additional Recorded covenants applicable to any Series may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Lots within such Series and for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

The success of Somers Pointe is dependent upon the support and participation of every Owner in its governance and administration. The Declaration establishes the Association as the mechanism by which each Owner is able to provide that support and participation. While many powers and responsibilities are vested in the Association's Board of Directors, some decisions are reserved for the Association's membership – the Owners of Lots in Somers Pointe.

Article 6 The Association and its Members.

6.1 Function of Association.

The Association is the entity responsible for management, maintenance, operation and control of the Common Area. The Association also is the primary entity responsible for enforcement of Governing Documents. The Association shall perform its functions in accordance with Governing Documents and the laws of the State of Oklahoma.

6.2 Membership.

Every Owner is a Member of the Association. There is only one (1) membership per Lot. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(3) of this Declaration and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated in writing from time to time by the Owner and provided to the Secretary of the Association.

6.3 Voting.

The Association shall have two (2) classes of membership, Class "A" and Class "B."

(1) **Class "A".** Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one (1) equal vote for each Lot in which they hold the interest required for membership under Section 6.2 of this Declaration, except that there shall be only one (1) vote per Lot and, except for property held by the Declarant, no vote shall be exercised for any property which is exempt from assessment under Section 8.9 of this Declaration. All Class "A" votes shall be cast as provided in Section 6.3(3) below.

(2) **Class "B".** The sole Class "B" Member shall be Declarant. The Class "B" Member may appoint members of the Board of Directors during the Class "B" Control Period, as specified in Section 3 of the Bylaws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 3.19 of the Bylaws.

The Class "B" membership shall terminate upon the earlier of:

(i) expiration or termination of the addition and annexation rights reserved to the Declarant in Section 9.1 to this Declaration; or

(ii) when, in Declarant's discretion, Declarant so determines and declares in a Recorded instrument.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to one (1) Class "A" vote for each Lot which Declarant owns and, during Declarant's ownership of such Lots, Declarant shall not be responsible for payment of any Common Expenses.

(3) **Exercise of Voting Rights.** Except as otherwise specified in this Declaration or the By-laws, the vote for each Lot owned by a Class "A" Member shall be exercised by the Member or proxy representing the Lot. The Member may cast all such votes as such Member, in such Member's discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for such Member's Lot, and there is more than one (1) Owner of such Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise such vote; however the Lot shall be counted for quorum purposes.

6.4 Series Voting.

(1) **Series.** Any Series may request that the Association provide a higher level of service than that which the Association generally provides to all Series or may request that the Association provide special services for the benefit of Lots in such Series. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Lots within the

Series, the Association shall provide the requested services; provided, however, the Board, in its sole discretion, may veto any such request by a Series.

The cost of such services requested by a Series and provided by the Association, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Lot to all Series receiving the same service), shall be assessed against the benefited Lots within such Series as a Series Assessment.

Exhibit "A" to this Declaration and each Supplemental Declaration submitting additional property to this Declaration may initially assign the property submitted thereby to a specific Series (by name or other identifying designation), which Series may be then existing or newly created. So long as Declarant has the right to subject additional property to this Declaration pursuant to Section 9.1 of this Declaration, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Series boundaries; provided, however, without the consent of the Owners of a majority of Lots in the affected Series, Declarant shall not combine two or more Series.

(2) Series Representation on Association Board. Subject to Declarant's right to appoint each member of the Board during the Class "B" Control Period, each Series shall elect a Series Board Member pursuant to the provisions below and as provided in the Bylaws, who shall represent the interests of the Owners of Lots within such Series. In addition, each Series shall elect an alternate Series Board Member, as provided below. The Series Board Member and alternate must be an Owner of a Lot within the Series which is represented.

The Series Board Member and alternate Series Board Member from each Series shall be elected on an annual basis, either by written ballot cast by mail or at a meeting of the Class "A" Members within such Series, as the Board determines. Upon written petition signed by Class "A" Members holding at least ten percent (10%) of the votes attributable to Lots within any Series, the election for such Series shall be held at a meeting. The presence, in person or by proxy or by written ballot, of Class "A" Members representing at least thirty (30%) of the total Class "A" votes attributable to Lots in the Series shall constitute a quorum at any Series meeting.

The Board shall call for the first election of a Series Board Member from a Series not later than one year after the expiration of the Class B Control Period. Subsequent elections shall be held each year on a date established by the Board. Each Class "A" Member who owns a Lot within the Series shall be entitled to cast one (1) vote per Lot owned. The candidate who receives the greatest number of votes shall be elected as Series Board Member and the candidate receiving the next greatest number of votes shall be elected as the Alternate Series Board Member. The Series Board Member and the Alternate Series Board Member shall serve a term of one year or until their successors are elected.

Any Series Board Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Lots owned by Class "A" Members in the Series which the Series Board Member represents.

Article 7 Association Powers and Responsibilities
7.1 Acceptance and Control of Association Property.

The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant and its designees may convey to the Association personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." The Association shall accept and maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall re-convey to Declarant any unimproved portions of Somers Pointe originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

The Declarant shall not bear any responsibility for any damages caused by mold, or by some other agent, that may be associated with defects in Common Area improvements and construction, to include but not be limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, and adverse health effects, or any other effects. Any implied warranties, including an implied warranty of workmanlike construction, an implied warranty of habitability, or an implied warranty of fitness for a particular use, are hereby waived and disclaimed.

7.2 Maintenance of Common Areas.

The Association shall maintain, in accordance with the Somers Pointe-Wide Standard and the business judgment rule, the Common Area, which shall include, but need not be limited to:

- (i) all portions of and structures situated upon the Common Area;
- (ii) landscaping within public rights-of-way within Somers Pointe;
- (iii) such portions of any additional property included within the Common Area as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;
- (iv) all areas located within Somers Pointe which serve as part of the storm water drainage system for Somers Pointe, including improvements and equipment installed therein or used in connection therewith; provided, neither Declarant, the Design Review Board, nor the Association shall have any liability for damage or injury caused by flooding or surface runoff resulting from rainfall or other natural occurrences; and
- (v) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Common Area and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association shall have the right to enter upon, for the purpose of maintaining, and may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Somers Pointe-Wide Standard.

The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own, except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing seventy-five percent (75%) of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Common Area shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

The costs associated with maintenance, repair, and replacement of the Common Area shall be a Common Expense; provided, the Association may seek reimbursement from the Owner(s) of, or other Persons responsible for, certain portions of the Properties pursuant to this Declaration, other Recorded covenants, or agreements with the Owner(s) thereof. Maintenance, repair, and replacement of Series Common Areas shall be a Series Expense assessed to the Series or multiple Series to which the Series Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

7.3 Insurance.

7.3.1 Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(1) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(2) Commercial general liability insurance on the Common Area, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally

available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least One Million Dollars (\$1,000,000) per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(3) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(4) Directors and officers liability coverage;

(5) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(6) Such additional insurance as the Board, in its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Series, obtain and maintain property insurance on the insurable improvements within such Series which insurance shall comply with the requirements of Section 7.3.1(1) of this Declaration. Any such policies shall provide for a certificate of insurance to be furnished, upon request, to the Owner of each Lot insured.

Premiums for all insurance on the Common Area shall be Common Expenses, except that (i) premiums for property insurance on Lots within a Series shall be a Series Expense; and (ii) premiums for insurance on Series Common Areas may be included in the Series Expenses of the Series or multiple Series to which such Series Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

7.3.2 Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the metropolitan Oklahoma City area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3.1 of this Declaration. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Series Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.24 of the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or

lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment.

7.3.2.1 *Additional Policy Requirements.* All insurance coverage obtained by the Board shall:

(1) be written with a company authorized to do business in the State of Oklahoma which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(2) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Series shall be for the benefit of the Owners within the Series and their Mortgagees, as their interests may appear;

(3) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(4) contain an inflation guard endorsement;

(5) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(6) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(7) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(8) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(9) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

7.3.2.2 *Desirable Policy Components.* In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

- (1) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;
- (2) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;
- (3) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (4) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;
- (5) a cross liability provision; and
- (6) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

7.3.3 Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Members representing at least seventy-five percent (75%) of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within sixty (60) days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with Somers Pointe- Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Lots within the insured Series, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3.1 of this Declaration.

7.4 Compliance and Enforcement.

Every Owner and occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the Bylaws. Such sanctions may include, without limitation:

- (1) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot. (In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator, but if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);
- (2) suspending an Owner's right to vote in all matters;
- (3) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (4) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;
- (5) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;
- (6) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of Article 4 of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;
- (7) without liability to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article 4 of this Declaration from continuing or performing any further activities in Somers Pointe; and
- (8) levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in Section 3.24 of the Bylaws; exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform such Owner's maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, determined in the sole discretion of the Board, the Association shall provide the Owner with reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by agreement, may, but shall not be obligated to, enforce applicable city and county ordinances, and may, but shall not be obligated to, permit Canadian County or the City of Oklahoma City to enforce ordinances within Properties for the benefit of the Association and the Members.

While conducting the business affairs of the Association, the Board shall act within the scope of the Governing Documents and in good faith to further the legitimate interests of the Association and the Members. In fulfilling its governance responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

7.5 Implied Rights; Board Authority.

The Association may exercise any right or privilege expressly given to the Association by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.6 Indemnification of Officers, Directors and Others.

Subject to Oklahoma law, the Association shall indemnify every officer, Director, and committee member, including the Design Review Board and Architectural Review Committee against all damages and expenses, including legal fees, reasonably incurred in connection with any claim, action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, Director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section.

The officers, Directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and Directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or Directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, Director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, Director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7 Security.

The Association may, but shall not be obligated to, maintain or support certain activities at Somers Pointe designed to enhance the security of Somers Pointe. Neither the Association nor Declarant are insurers or guarantors of security at Somers Pointe, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

The Association and Declarant make no representation or warranty that any systems or measures, including any mechanism or system for limiting access to Somers Pointe, cannot be compromised or circumvented, or that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board and committee members, and Declarant are not insurers and that each Person at Somers Pointe assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

7.8 Powers of the Association Relating to Series.

The Association shall have the power to veto any action taken or contemplated to be taken by any Series which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Somers Pointe-Wide Standard. The Association also shall have the power to require specific action to be taken by any Series in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefor.

A Series shall take the action specified by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Series fails to comply, the Association shall have the right to take such action on behalf of the Series and levy Specific Assessments to cover the costs thereof, as well as an administrative charge and sanctions.

7.9 Provision of Services.

The Board may enter into and terminate contracts or agreements with other entities, including Declarant, to provide services to and facilities for the Members and their guests, lessees and invitees; the Board may charge use and consumption fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities. Services provided to Lots comprising a Series or multiple Series shall constitute Series Expenses for those Series receiving the services.

7.10 Facilities and Services Open to the Public.

Certain facilities and areas within the Common Area may be open for the use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, a town center, parks and other neighborhood spots at which to gather and interact, and roads, sidewalks, medians, and parking lots. Declarant may designate such areas and facilities as open to the public at the time Declarant makes such facilities or areas a part of the Common Area or the Board may so designate at any time thereafter.

7.11 Association's Responsibility with Respect to Transfer of Lots.

If required by law, the Association shall furnish to the purchaser of a Lot, within seven (7) days after receipt of notice of a pending sale of the Lot given in accordance with Article 16 of this Declaration, a copy of the Governing Documents, if not otherwise received by the purchaser in connection with such sale, and a dated document containing the following:

- (1) the telephone number and address of a principal contact for the Association, as designated by the Board;
- (2) the amount of all assessments, fees, or charges then owed by the seller of the Lot;

- (3) a statement regarding whether any portion of the subject Lot is covered by insurance the Association maintains;
- (4) a statement regarding whether the Association has any knowledge of any alterations or improvements to the Lot that violate any provision of this Declaration;
- (5) a statement as to whether the Association has knowledge of any violations of local health or building codes with respect to the Lot; and
- (6) a statement of case names and case numbers for pending litigation with respect to the Lot filed by the Association against the Member or filed by the Member against the Association.

The Association may charge a fee to cover the costs the Association incurs in preparing any document required by this Section.

Article 8 Association Finances.

8.1 Budgeting and Allocating Common Expenses.

Prior to or contemporaneous with the invoicing of assessments, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3 of this Declaration. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Lots, as authorized in Section 8.6 of this Declaration.

The Association is hereby authorized to levy Base Assessments, in accordance with the initial amounts set forth in Exhibit "E," or by some other formula, against all Lots subject to assessment under Section 8.6 of this Declaration to fund the Common Expenses. In determining the Base Assessment rate per Lot, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Section 2.4 of the Bylaws, which petition must be presented to the Board within ten (10) days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove

the revised budget as set forth above. Notwithstanding any provision to the contrary, the Board may, in its sole discretion, increase the Base Assessment, provided such increase is uniform to all Lots and is no greater than twenty percent (20%) in any fiscal year.

8.2 Budgeting and Allocating Series Expenses.

At the same time as the Association-wide budget, the Board shall prepare a separate budget covering the estimated Series Expenses for each Series on whose behalf Series Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Series have approved pursuant to Section 6.4.1 of this Declaration and any contribution to be made to a reserve fund pursuant to Section 8.3 of this Declaration. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount required to be generated through the levy of Series and Special Assessments against the Lots in such Series.

The Association is hereby authorized to levy Series Assessments, in accordance with the formula set forth in Exhibit "E," or by some other formula, against all Lots in the Series which are subject to assessment under Section 8.6 of this Declaration to fund Series Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Series, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Lots in proportion to the benefit received.

The Board shall cause a copy of the Series budget and notice of the amount of the Series Assessment for the coming year to be delivered to each Owner in the Series together with any invoice for Base or Series Assessments. Such budget and assessment shall become effective unless disapproved at a meeting of the Series by Owners of a majority of the Lots in the Series to which the Series Assessment applies. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least ten percent (10%) of the Lots in such Series. This right to disapprove shall only apply to those line items in the Series budget which are attributable to services requested by the Series and shall not apply to any item which the Governing Documents require to be assessed as a Series Assessment.

If the proposed budget for any Series is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Series and the amount of any Series Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Lots in the affected Series to disapprove the revised budget as set forth above.

8.3 Budgeting for Reserves.

The Board shall prepare and review at least annually reserve budgets for, respectively the Common Area and for each Series for which the Association maintains capital items as a Series Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 of this Declaration and the Series Expense budgets adopted pursuant to Section 8.2 of this Declaration, as appropriate, capital contributions to fund reserves in amounts sufficient to meet projected needs with respect both to amount and timing by annual contributions over the applicable budget period.

8.4 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of the amount budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Lots within any Series if such Special Assessment is for Series Expenses. The Association shall levy any Special Assessment in accordance with the formula set forth in Exhibit "E." Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Members (if a Common Expense) or Series Owners (if a Series Expense) representing more than fifty percent (50%) of the total votes allocated to Lots which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Lot as follows:

(1) to cover the costs, including overhead and administrative costs, of providing services to a Lot upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9 of this Declaration). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(2) to cover costs incurred in bringing a Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of a Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with Section 3.24 of the Bylaws, before levying any Specific Assessment under this subsection (2).

The Association may levy a Specific Assessment against the Lots within any Series to reimburse the Association for costs incurred in bringing the Series into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Lots in, or the Series Board Member representing, the Series and an opportunity for such Owners or Series Board Member to be heard before levying any such assessment.

8.6 Authority to Assess Owners; Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence on January 1, 2005.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at the closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the Base Assessment and any Series Assessment shall be due and payable in advance on the first (1st) day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

8.7 Obligation for Assessments.

8.7.1 Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of Somers Pointe, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of ten percent [10%] per annum or such higher rate as the Board may establish, subject to the limitations of Oklahoma law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Series Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt themselves from liability for assessments by non-use of Common Area, abandonment of a Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association to

take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon written request from an Owner, Mortgagee, or other Person designated by the Owner, furnish a certificate, in recordable form, signed by an officer of the Association setting forth whether assessments for such Owner's Lot have been paid and any delinquent amount. Such certificate shall be binding upon the Association, the Board, and the Owners. If the Association fails to provide such certificate within seven (7) business days of its receipt of a written request, any lien for unpaid assessments then due shall be extinguished, if Oklahoma law requires extinguishment in such case. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

8.8 Lien for Assessments.

All assessments and other charges of the Association authorized in this Article or elsewhere in this Declaration shall constitute a lien against the Lot against which they are levied from the time such assessments or charges become delinquent until paid. The lien shall also secure payment of interest (subject to the limitations of Oklahoma law), late charges (subject to the limitations of Oklahoma law), and costs of collection (including attorneys' fees, lien fees and administrative costs). Such lien shall be superior to all other liens, except those deemed by Oklahoma law to be superior. The Association may enforce such lien, when any assessment or other charge is delinquent, by suit, judgment, and foreclosure.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Lot shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 8.6 of this Declaration, including such acquirer, its successors and assigns.

Notwithstanding any other provision of this Declaration, no governmental authority or public utility shall be liable for assessments on any Dedicated Property. Dedicated Property shall include, without limitation, such areas created by or dedicated in the form of easements,

including, perpetual easements, tract easements, and easements in favor of the City of Oklahoma City or municipal use property.

If only a portion of a Lot is Dedicated Property, any assessments which arose prior to the dedication shall remain due and owing against the non-dedicated portion of the Lot. If the entire Lot is Dedicated Property, such unpaid assessments shall be deemed to be Common Expenses collectible from owners of all Lots subject to assessment under Section 8.6 of this Declaration.

In the event that a lien exists on any Dedicated Property, (a) if only a portion of the Lot is Dedicated Property, the lien shall remain in effect with respect to the undedicated portion of the Lot and shall terminate with respect to the Dedicated Property, or (b) if the entire Lot is Dedicated Property, the lien shall terminate with respect to the entire Lot.

8.9 Exempt Property.

Notwithstanding any provision to the contrary in the Governing Documents, the following property shall be exempt from payment of Base Assessments, Series Assessments, and Special Assessments:

- (1) All Common Area and such portions of the property owned by Declarant as are included in the Common Area pursuant to Section 7.2 of this Declaration;
- (2) Any and all Dedicated Property including, without limitation such areas created by or dedicated in the form of easements, including, perpetual easements, tract easements, and easements in favor of the City of Oklahoma City, or property identified on the Development Plan as municipal use property; and
- (3) Property owned by any Series for the common use and enjoyment of its members, or owned by the members of a Series as tenants-in-common.
- (4) All property held by the Declarant, its successors, and its assigns, provided further that the Declarant, its successors and assigns shall be exempt from Specific Assessments, and Reserve Assessments.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.10 Limitation on Increases of Assessments.

Notwithstanding any provision to the contrary, the Board may not impose an assessment increase exceeding that allowable under Oklahoma law.

The Declaration reserves various rights to Declarant in order to facilitate the smooth and orderly development of Somers Pointe and to accommodate changes in the Development Plan which inevitably will occur as Somers Pointe grows and matures.

Article 9 Expansion of Somers Pointe
9.1 Expansion by Declarant.

Declarant may from time to time subject to the provisions of this Declaration or annex all or any portion of the Properties by Recording a Supplemental Declaration describing the additional property to be subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand Somers Pointe pursuant to this Section shall expire when all of the Properties have been subjected to this Declaration or forty (40) years after the Recording of the last Recorded Declaration or Supplemental Declaration whichever is earlier. Until then, Declarant may transfer or assign this right to annex property to any Person who is a purchaser of any portion of the Properties. Declarant shall memorialize such transfer in a Recorded instrument.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the Properties in any manner whatsoever.

9.2 Expansion by the Association.

The Association may subject additional property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Any such Supplemental Declaration shall require the affirmative vote of Members representing more than fifty percent (50%) of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration, the consent of Declarant shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property and by Declarant, if Declarant's consent is necessary.

9.3 Additional Covenants and Easements.

Declarant may subject any portion of Somers Pointe to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property

previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4 Effect of Recording Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

9.5 Condominium Conversions.

In the event that any property now or hereafter subjected to this Declaration and located within the property described in Exhibits "A" or "B" is converted to a condominium, the owner of such property, subject to Declarant's approval requirements below, shall, subject such property to the provisions of this Declaration by Recording a Supplemental Declaration describing the property and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of the Association but shall require the signature of an officer of the Association acknowledging it. In addition, Declarant's prior written consent shall be necessary so long as Declarant owns any property described in Exhibits "A" or "B." Thereafter, each condominium unit within the condominium shall be treated in all respects as a Lot.

Article 10 Additional Rights Reserved to Declarant.

10.1 Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as it has a right to annex additional property pursuant to Section 9.1 of this Declaration, for the purpose of removing from the coverage of this Declaration any portion of Somers Pointe which has not yet been improved with structures. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if such Owner is not Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2 Marketing and Sales Activities.

Declarant and Builders authorized by Declarant may construct and maintain upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have a license with interest for access to and use of such facilities.

10.3 Right to Develop.

Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in Somers Pointe acknowledges that Somers Pointe is a planned community, the development of which is likely to extend over many years, and agrees not to use Association funds to protest, challenge or otherwise object to (a) changes in uses or density of property outside the Series in which such Person holds an interest, or (b) changes in the Development Plan as it relates to property outside the Series in which such Person holds an interest. To be clear, no Association funds shall be used to challenge, protest, object to, or otherwise interfere with the Declarant's development activities in Somers Pointe.

10.4 Right to Approve Changes in Standards.

No amendment to or modification of any Use Restrictions and Rules shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration.

10.5 Right to Transfer or Assign Declarant Rights.

Any or all of the special rights and obligations of Declarant set forth in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and duly Recorded. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.6 Exclusive Rights to use Name of Development.

No Person shall use the name "Somers Pointe" or any derivative of such name in any printed, electronic, or promotional material without Declarant's prior written consent. However, Owners may use the name "Somers Pointe" in printed or promotional matter where such term is used solely to specify that particular property is located at Somers Pointe and the Association shall be entitled to use the word "Somers Pointe" in its name.

10.7 Termination of Rights.

The rights contained in this Article shall not terminate until the earlier of (a) the date of termination of the Class B Control Period pursuant to Section 9.1 of this Declaration or (b) Recording by Declarant, in the sole discretion of the Declarant, of a written statement terminating such rights.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others in or adjacent to the community.

Article 11 Easements.

11.1 Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (1) The Governing Documents and any other applicable covenants;
- (2) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (3) The Board's right to:
 - (i) adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Lot remains delinquent, and (B) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of Governing Documents after notice and a hearing pursuant to Section 3.24 of the Bylaws;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
 - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;
 - (v) permit use of any recreational facilities situated on the Common Area by

persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;

(vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(vii) designate certain areas and facilities within the Common Area as open for the use and enjoyment of the public in accordance with Section 7.10 of this Declaration; and

(viii) limit the use of those portions of the Common Area designated "Series Common Areas," as described in Article 12 of this Declaration to the exclusive use of certain Owners.

Any Owner may extend the rights of use and enjoyment hereunder to the members of such Owner's family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases a Lot shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease.

Each Owner shall have an express covenant and easement for light, air, sound, and view in and around the Common Areas. A framework for preserving such covenant and easement is provided by the standards outlined in the Design Review Guidelines, the Governing Documents, and the Somers Pointe-Wide Standard. This covenant and easement seeks to preserve the tranquil, peaceful, and aesthetically pleasing enjoyment of Owners within the Common Area. This covenant and easement shall not purport to provide any Owner substantive rights in any Lot burdened by this easement, only that the Owners may expect the Design Review Board to interpret and enforce the Design Review Guidelines to encourage a natural, peaceful, and aesthetically pleasing Common Area enjoyment experience.

Declarant, so long as Declarant owns any of the Properties, and the Association shall have the right to grant easements in and to the Common Area to any service provider or third-party contractor as may be necessary, in the sole discretion of Declarant or the Association, in connection with such service provider's or contractor's provision of services to Somers Pointe. Any such easements shall be subject to any limitations or restrictions placed upon the easement by the grantor. The grantor of such easements, either Declarant or the Association, shall have the right to require specifically that the party exercising the easements, after exercising the easement, take restorative or ameliorative action with respect to the burdened property.

11.2 Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist

if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3 Easements for Utilities, Etc.

(1) The Properties shall be subject to such easements as are set forth in any and all separate, duly Recorded instruments, including without limitation, any and all applicable subdivision plats, maps of dedication, easements and easement agreements, subject to such terms, conditions, limitations, or restrictions as may be set forth in such separate instruments. Such easements may include (but shall not be required to include) easements for ingress and egress, private streets, public and private paths and trails, access for maintenance purposes, drainage and storm drains, landscape irrigation, private and public utilities, open space and visibility, emergency vehicle, and service vehicle access. Declarant and the Association, for themselves and their respect successors and assigns, each reserve the right to grant, convey, and dedicate over, upon, beneath, and across any land owned by either, any and all easements deemed appropriate, whether in favor of any governmental entity, including Canadian County and the City of Oklahoma City, any public or private utility company, or any other third party, on such terms and subject to such conditions, limitations, or restrictions as may be necessary or appropriate to carry out the purpose of such easement.

(2) Declarant also reserves for itself and grants to the Association the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant or the Association, as applicable, in connection with the orderly development of any of the Properties, provided, the Association shall have such right and power only with respect to property that has been subjected to this Declaration in accordance with Article 9 of this Declaration and only with respect to any Common Area that is owned by Declarant or the Association, as applicable.

(3) All work associated with the exercise of the easements described in subsections (1) and (2) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. The grantor of the easements described in subsection (1) or (2), either Declarant or the Association, shall have the right to require specifically that the party exercising the easement, after exercising the easement, take restorative or ameliorative action with respect to the burdened property. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.4 Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Association Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such

property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property. In the event of any such damage to the property, whether to natural conditions or structures and regardless of whether such damage is the result of negligent, willful, or any other type of action, Declarant or its successors or assigns, whichever is appropriate, shall repair such property and shall restore it to the condition which existed prior to the occurrence of the damage or to the condition any governmental entity having jurisdiction requires, whichever standard is stricter. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property.

11.5 Easements for Maintenance, Emergency and Enforcement.

Declarant reserves to itself and grants to the Association easements over Somers Pointe as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2 of this Declaration. The Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce Governing Documents; provided, however, except to avoid imminent threat of personal injury or property damage, entry into any portion of any property not generally open to the public shall only be authorized during reasonable hours and after receipt of the consent of the Owner or occupant, which consent shall not unreasonably be withheld.

11.6 Easements for Irrigation, Detention/Retention Maintenance, and Flood Water.

To the extent that any lakes, ponds, channels, detention ponds, retention areas, collections of storm water drainage (collectively, Detention/Retention Area) is located within the Common Area, this Declaration hereby creates, in favor of Declarant and its successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon any Detention/Retention Area located within the Common Area to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Common Area; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Somers Pointe-Wide Standard.

To the extent that any Detention/Retention Area is located within the Common Area, this Declaration hereby creates in favor of the Association and its successors, assigns, and designees, the nonexclusive right and easement to enter upon any Detention/Retention Area located within the Common Area to (a) install, operate, maintain, and replace pumps to supply

Detention/Retention Area to the Common Area; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the Somers Pointe-Wide Standard.

Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any of Somers Pointe abutting or containing any Detention/Retention Area to the extent reasonably necessary to exercise their rights under this Section.

Declarant reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within 100 feet of any Detention/Retention Area at Somers Pointe, in order to (a) alter in any manner and generally maintain any irrigation lake within the Common Area; and (b) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant, the Association, or any other Person liable for damage or injury resulting from flooding or surface runoff due to rainfall or other natural occurrences.

11.7 Easements for Drainage Areas.

This Declaration hereby creates in favor of Declarant, so long as Declarant owns any of the Properties and the Association, and their successors, assigns, and designees, the nonexclusive right and easement to enter upon drainage ways, drainage culverts, natural drainage areas, washes and wash areas, other areas at Somers Pointe, including areas within Lots, used to drain surface runoff and flood waters, and any improvements and equipment installed or used in connection therewith (collectively, "Drainage Areas") to install, maintain, repair, and replace such areas and property. Except to avoid imminent threat of personal injury or property damage, entry onto any portion of any property not generally open to the public shall only be authorized during reasonable hours and after receipt of the Owner's or occupant's consent, which consent shall not unreasonably be withheld.

11.8 Easements for Screening and Fencing.

This Declaration hereby creates in favor of Declarant, so long as Declarant owns any the Properties and the Association, and their successors, assigns, and designees, the nonexclusive right and easement to enter upon Lots and other areas within Somers Pointe, on which screening and fencing has been installed for the purpose of improving the aesthetic quality of Somers Pointe. Except to avoid imminent threat of personal injury or property damage, entry onto any portion of any property not generally open to the public shall only be authorized during reasonable hours and after receipt of the Owner's or occupant's consent, which consent shall not unreasonably be withheld.

Article 12 Series Common Areas.

12.1 Purpose.

Certain portions of the Common Area may be designated as Series Common Area and reserved for the primary use or primary benefit of Owners and occupants within a particular Series or multiple Series. By way of illustration and not limitation, Series Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes and other portions of the Common Area within a particular Series or multiple Series. All costs associated with maintenance, repair, replacement, and insurance of a Series Common Area shall be a Series Expense allocated among the Owners in the Series to which the Series Common Areas are assigned.

12.2 Designation.

Any Series Common Area shall be designated as such in the deed conveying such area to the Association, Supplemental Declaration, or on the plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Series Common Area to additional Lots and/or Series, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1 of this Declaration.

A portion of the Common Area may be assigned as Series Common Area and may be reassigned upon approval of the Board and the vote of Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Series affected by the proposed assignment or reassignment. As long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration, any such assignment or reassignment shall also require Declarant's written consent.

12.3 Use by Others.

In the event Series Common Area should be limited to use by only those Owners within the Series containing limited Series Common Area (Exclusive Series Common Area), and only upon approval of a majority of the members of the Series to which any Exclusive Series Common Area is assigned, the Association may permit Owners of Lots in other Series to use all or a portion of such Exclusive Series Common Area upon payment of reasonable user fees, which fees shall be used to offset the Series Expenses attributable to such Series Common Area.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Somers Pointe as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with its neighbors, and protection of the rights of others who have an interest in the community.

Article 13 Dispute Resolution and Limitation on Litigation.
13.1 Consensus for Association Litigation.

Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval at least two-thirds (2/3rds) of the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce Governing Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Prior to the Association or any Member commencing any judicial or administrative proceeding to which Declarant is a party and which arises out of an alleged defect at Somers Pointe or any improvement constructed upon Somers Pointe, Declarant shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of Somers Pointe, including any improvement as to which a defect is alleged. In addition, the Association or the Member shall notify the builder who constructed the subject improvement prior to retaining any other expert as an expert witness or for other litigation purposes.

13.2 Dispute Resolution and Enforcement.

Subject to Section 13.1 of this Declaration, prior to the Declarant, Association, or any Member bringing any judicial or administrative proceeding under the Governing Documents or for a claim against the Declarant, Association, or any Member, such Person making a claim shall make a good faith attempt to negotiate in person with the other party, including seeking formal pre-litigation mediation, for the resolution of the dispute. In the event good faith negotiations fail to resolve the dispute, the Person shall thereafter be entitled to sue in any court of competent jurisdiction or to initiate proceedings before any appropriate administrative tribunal on their claim. Each Party shall bear its own costs of any mediation, including attorneys' fees, and each Party shall share equally all charges rendered by any mediator. If the Parties agree to a resolution of any claim through negotiation or mediation and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth above. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

Each Owner shall comply strictly with the Governing Documents, including any rules, regulations, and resolutions of the Association. Failure to so comply shall be grounds for the taking of such actions elsewhere provided for in the Governing Documents, including but not limited to the institution of legal proceedings in an action at law and/or in equity. Should the Declarant or Association engage legal counsel for representation, all costs associated with such

engagement, including litigation costs and expenses shall be recovered from the other party, which may be a Specific Assessment if the other party is a Member. No delay, failure, or omission on the part of the Declarant or Association in exercising any right, power, or remedy provided in these Governing Documents shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power, or remedy thereafter as to the same violation or breach, and shall act as no bar to enforcement.

Article 14 Mortgagee Provisions.

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

14.1 Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (1) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (2) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of Governing Documents relating to such Lot or the Owner or Occupant which is not cured within sixty (60) days;
- (3) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (4) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

14.2 Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing Section. Unless at least sixty-seven percent (67%) of the first Mortgagees or Members representing at least sixty-seven percent (67%) of the total Association vote consent, the Association shall not:

- (1) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar

purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(2) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot (a decision, including contracts, by the Board or provisions of any declaration subsequently Recorded on any portion of Somers Pointe regarding assessments for Series or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration);

(3) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(4) Fail to maintain insurance, as required by this Declaration; or

(5) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

14.3 Other Provisions for First Lien Holders.

To the extent not inconsistent with Oklahoma law:

(1) Any restoration or repair of Somers Pointe after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Lots to which more than fifty percent (50%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(2) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Lots to which more than fifty percent (50%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

14.4 Amendments to Documents.

The following provisions do not apply to amendments to Governing Documents or to termination of the Association as a result of destruction, damage, or condemnation pursuant to

Sections 14.3(1) and (2) of this Declaration, to the addition of land in accordance with Article 9 of this Declaration, or to Declarant rights under Article 18 of this Declaration:

(1) The consent of Members representing at least sixty-seven percent (67%) of the Class "A" votes and of Declarant, so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders of first Mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Lots subject to a Mortgage appertain, shall be required to terminate the Association.

(2) The consent of Members representing at least sixty-seven percent (67%) of the Class "A" votes and of Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Lots to which more than fifty percent (50%) of the votes of Lots subject to a Mortgage appertain, shall be required materially to amend any provisions of the Declaration, Bylaws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of Somers Pointe;
- (vii) expansion or contraction of Somers Pointe or the addition, annexation, or withdrawal of property to or from the Association;
- (viii) boundaries of any Lot;
- (ix) leasing of Lots;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Declaration, Bylaws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Lots.

14.5 No Priority.

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

14.6 Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

14.7 Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

14.8 Construction of Article 14.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Oklahoma law for any of the acts set out in this Article.

Article 15 Relationship with City of Oklahoma City, Canadian County, and Media.

The Association shall promulgate and implement a process for and shall appoint a member who serves as a single point of contact for the City of Oklahoma City, Canadian County, media, and members of the public. The responsibilities of such member shall include, without limitation, communicating with the City of Oklahoma City regarding maintenance issues within the purview of the Association and answering questions relevant to any matters for which the Association has responsibility or authority.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as Somers Pointe are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the resident's age and change over time, and as the surrounding community changes. Somers Pointe and Governing Documents must be able to adapt to these changes while protecting the special features of Somers Pointe that make Somers Pointe unique.

Article 16 Changes in Ownership of Lots.

Any Owner desiring to sell or otherwise transfer title to a Lot shall give the Board at least fourteen (14) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board or the date title transfers, whichever is later.

Article 17 Changes in Common Area.
17.1 Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least sixty-seven percent [67%] of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1 of this Declaration) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as set forth in this Article.

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) days after such taking, Declarant, so long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1 of this Declaration, and Members representing at least seventy-five percent (75%) of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3.3 of this Declaration regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

17.2 Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

17.3 Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to Canadian County, Oklahoma, the City of Oklahoma City, or to any other local, state, or federal governmental or quasi-governmental entity.

Article 18 Amendment of Declaration.
18.1 By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration and without restriction by any term within this Declaration, until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose and at any time, including during restrictive periods. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency.

Any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing. In addition, so long as Declarant owns any of the Properties, the Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

18.2 By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing seventy-five percent (75%) of the total Class "A" votes in the Association, including seventy-five percent (75%) of the Class "A" votes held by Members other than Declarant, and the consent of Declarant, so long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1 of this Declaration. In addition, the approval requirements set forth in Article 14 of this Declaration shall be met, if applicable.

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

18.3 Validity and Effective Date.

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

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision

in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

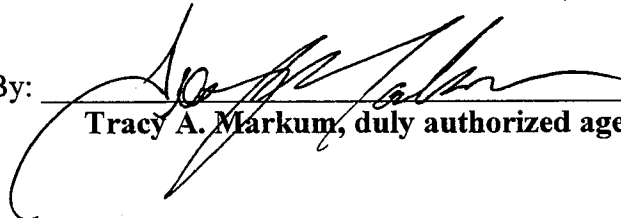
Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

18.4 Exhibits.

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

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above on the signature blocks below.

ERC LAND DEVELOPMENT GROUP, L.L.C., - DECLARANT
an Arkansas limited liability company

By: 
Tracy A. Markum, duly authorized agent

TERRA VERDE DEVELOPMENT, L.L.C., - DECLARANT
an Oklahoma limited liability company

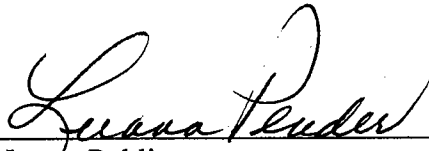
By: 
Richard McKown, duly authorized agent

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ACKNOWLEDGEMENTS

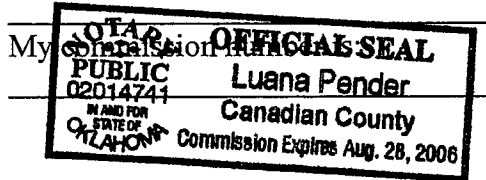
State of Oklahoma }
 } ss
County of Oklahoma }

Before me, the undersigned Notary Public in and for the above county and state, on the date of October 21, 2004, personally appeared Tracy A. Markum, known to me to be the identical person who executed his name to the foregoing Declaration, who is the duly authorized agent for the Declarant for executed such Declaration, who acknowledged to me that he did so as his free and voluntary act on behalf of the Declarant for the uses and purposes set forth in the Declaration.

Subscribed and sworn to before me
The date next written above.
My commission expires:



Notary Public



ACKNOWLEDGEMENT

State of Oklahoma }
 } ss
County of Oklahoma }

Before me, the undersigned Notary Public in and for the above county and state, on the date of October 21, 2004, personally appeared Richard McKown, known to me to be the identical person who executed his name to the foregoing Declaration, who is the duly authorized agent for the Declarant for executed such Declaration, who acknowledged to me that he did so as his free and voluntary act on behalf of the Declarant for the uses and purposes set forth in the Declaration.

Subscribed and sworn to before me
The date next written above.
My commission expires:



Notary Public

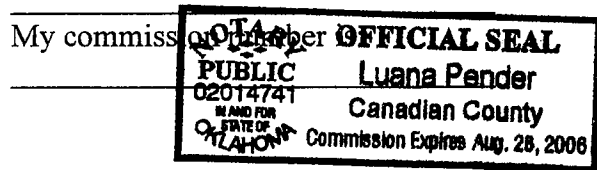


EXHIBIT "A"**Real Property**

A tract of land lying on the Northeast Quarter of Section Six (6), Township Eleven (11) North, Range Five (5) West, Indian Meridian. Being more particularly described as follows:

Commencing at the Northeast Corner of the NE/4 of said Section 6; Thence N89°57'57"W along the North line of said NE/4 a distance of 846.89' to the point of beginning; Thence S0°00'00"W a distance of 444.95'; Thence S42°45'27"W a distance of 90.57'; Thence S18°22'04"W a distance of 68.57'; Thence S0°05'19"W a distance of 492.47'; Thence along a curve to the left having a radius of 530.00 feet, a Chord bearing of S75°30'40"W, a Chord distance of 200.42' for an Arc length of 201.64 feet; Thence N23°35'30"E a distance of 37.02'; Thence N18°53'16"W a distance of 14.94'; Thence along a curve to the right having a radius of 385.00 feet, a Chord bearing of N16°31'52"W, a Chord distance of 31.66' for an Arc length of 31.67 feet; Thence S89°48'19"W a distance of 139.39'; Thence N0°05'19"E a distance of 420.01'; Thence S89°48'19"W a distance of 595.56'; Thence N0°02'11"E a distance of 623.83' to a point on the North line of said NE/4; Thence S89°57'57"E along the North line of said NE/4 a distance of 1010.84' to the point of beginning.

Containing 766521.18 Sq. Ft. or 17.60 acres, more or less.

EXHIBIT "B"

Land Subject to Annexation

Somers Village at Somers Pointe, Somers Villas at Somers Pointe and Somers Ridge at Somers Pointe to be annexed as Terra Verde elects:

A part of the Northeast Quarter (NE/4) of Section Six (6), Township Eleven (11) North, Range Five (5) West of the Indian Meridian, Canadian County, Oklahoma, more particularly described as follows:

Commencing at the Northeast corner of the NE/4 of said Section 6; Thence North 89°57'57" West along the North line of said NE/4 a distance of 60.00 feet; Thence South 0°00'03" East along the West right of way line of State Highway #92 and 60.00 feet West of and parallel with the East line of said NE/4 a distance of 1033.64 feet; Thence South 44°54'08" West a distance of 35.41 feet; Thence South 89°48'19" West and parallel with the South line of said NE/4 a distance of 103.30 feet; Thence South 85°56'09" West a distance of 88.91 feet; Thence South 89°48'19" West and parallel with the South line of said NE/4 a distance of 74.68 feet to the Point of Beginning; Thence continuing South 89°48'19" West and parallel with the South line of said NE/4 a distance of 547.71 feet; Thence along a curve to the left having a radius of 530.00 feet and a chord bearing of South 74°04'38" West and a chord distance of 287.34 feet for an arc length of 290.98 feet; Thence South 58°20'56" West a distance of 156.73 feet; Thence along a curve to the right having a radius of 470.00 feet and a chord bearing of South 82°59'37" West and a chord distance of 391.97 feet for an arc length of 404.32 feet; Thence along a curve to the left having a radius of 3030.00 feet and a chord bearing of North 72°59'15" West and a chord distance of 66.20 feet for an arc length of 66.20 feet; Thence North 0°00'00" East a distance of 201.75 feet; Thence North 90°00'00" West a distance of 114.70 feet; Thence along a curve to the left having a radius of 200.00 feet and a chord bearing of South 73°07'41" West and a chord distance of 116.09 feet for an arc length of 117.79 feet; Thence along a curve to the right having a radius of 385.00 feet and a chord bearing of North 6°45'28" West and a chord distance of 327.31 feet for an arc length of 338.07 feet; Thence along a curve to the left having a radius of 1030.00 feet and a chord bearing of North 14°20'32" East and a chord distance of 145.70 feet for an arc length of 145.82 feet; Thence North 90°00'00" East a distance of 131.53 feet; Thence North 0°02'11" East a distance of 623.83 feet to a point on the North line of said NE/4; Thence North 89°57'57" West along the North line of said NE/4 a distance of 547.42 feet; Thence South 0°03'32" East and parallel with the West line of said NE/4 a distance of 250.00 feet; Thence North 89°57'57" West and parallel with the North line of said NE/4 a distance of 250.00 feet to a point on the West line of said NE/4; Thence South 0°03'32" East along the West line of said NE/4 a distance of 2389.60 feet to the Southwest corner of said NE/4; Thence North 89°48'19" East along the South line of said NE/4 a distance of 1842.59 feet;

Thence North 0°00'03" West and parallel with the East line of said NE/4 a distance of 809.90 feet; Thence North 89°48'19" East and parallel with the South line of said NE/4 a distance of 457.05 feet; Thence North 0°05'19" East a distance of 754.71 feet to the Point of Beginning.

AND

A part of the Northeast Quarter (NE/4) of Section Six (6), Township Eleven (11) North, Range Five (5) West of the Indian Meridian, Canadian County, Oklahoma, and being more particularly described as follows:

Commencing at the Northeast Corner of said NE/4 of said Section 6; Thence North 89°57'57" West along the North line of said NE/4 a distance of 60.00 feet; Thence South 00°00'03" East, and along the West right-of-way line of State Highway #92 and 60.00 feet West of and parallel with the East line of said NE/4 a distance of 1033.64 feet to the Point of Beginning; Thence continuing South 00°00'03" East, along said West right-of-way line of State Highway #92, a distance of 785.70 feet; Thence South 89°48'19" West a distance of 292.85 feet; Thence North 00°05'19" East a distance of 754.71 feet; Thence North 89°48'19" East a distance of 74.68 feet; Thence North 85°56'09" East a distance of 88.91 feet; Thence North 89°48'19" East a distance of 103.30 feet; Thence North 44°54'08" East a distance of 35.42 feet to the Point of Beginning.

LESS AND EXCEPT public rights of way for ingress and egress and conveyances to the Association of Common Areas.

Additional Phases of Somers Park at Somers Pointe to be annexed as ERC elects:

A tract of land lying in the Northeast Quarter (NE/4) of Section Six (6), Township Eleven (11) North, Range Five (5) West of the Indian Meridian, Canadian County, Oklahoma, being more particularly described as:

Commencing at the Northeast corner of the N.E. ¼ of said Sec. 6, Thence North 89° 57'57" West along the North line of said N.E. ¼ a distance of 60 feet to the point of beginning on the Westerly right-of-way line of Highway No. 92; thence South 00°00'03" East along said right-of-way line, 60 feet West of and parallel with the East line of said N.E. ¼ a distance of 1819.34 feet; Thence South 89°48'19" West parallel with the South line of said N.E. ¼ a distance of 749.90 feet; Thence South 00°00'03" East parallel with the East line of said N.E. ¼ a distance of 809.90 feet to the South line of said N.E. ¼; Thence South 89° 48'19" West along said South line a distance of 1842.59 feet to the Southwest corner of said N.E. ¼; Thence North 00°03'32" West along the West line of said N.E. ¼ a distance of 2389.60 feet; Thence South 89°57'57" East and parallel with the North line of said N.E. ¼ a distance of 250.00 feet; Thence North 00°03'32" West and parallel with the West line of said N.E. ¼ a distance of 250.00 feet to a point lying on the North line of said N.E. ¼; Thence South 89°57'57" East along the North line of said N.E. ¼ a distance of 2345.15 feet to the point of beginning.

LESS AND EXCEPT the following described tracts of land:

A tract of land lying in the Northeast Quarter (NE/4) of Section Six (6), Township Eleven (11) North, Range Five (5) West of the Indian Meridian, Canadian County, Oklahoma, being more particularly described as follows:

Commencing at the Northeast Corner of the NE/4 of said Section 6; Thence North $89^{\circ}57'57''$ West along the North line of said NE/4 a distance of 60.00 feet to the Point of Beginning on the Westerly Right of Way line of State Highway #92; Thence South $0^{\circ}00'03''$ East along said Right of Way line, 60.00 feet West of and parallel with the East line of said NE/4 a distance of 931.76 feet; Thence South $89^{\circ}58'26''$ West a distance of 290.55 feet; Thence North $0^{\circ}05'19''$ East a distance of 552.33 feet; Thence North $90^{\circ}00'00''$ West a distance of 290.00 feet; Thence South $0^{\circ}05'19''$ West a distance of 64.91 feet; Thence North $90^{\circ}00'00''$ West a distance of 207.11 feet; Thence North $0^{\circ}00'00''$ West a distance of 444.95 feet to a point on the North line of said NE/4; Thence South $89^{\circ}57'57''$ East along the North line of said NE/4 a distance of 786.88 feet to the Point of Beginning.

AND

A tract of land lying in the Northeast Quarter of Section Six (6), Township Eleven (11) North, Range Five (5) West, Indian Meridian. Being more particularly described as follows:

Commencing at the Northeast Corner of the NE/4 of said Section 6; Thence $N89^{\circ}57'57''W$ along the North line of said NE/4 a distance of 846.89' to the point of beginning; Thence $S0^{\circ}00'00''W$ a distance of 444.95'; Thence $S42^{\circ}45'27''W$ a distance of 90.57'; Thence $S18^{\circ}22'04''W$ a distance of 68.57'; Thence $S0^{\circ}05'19''W$ a distance of 492.47'; Thence along a curve to the left having a radius of 530.00 feet, a Chord bearing of $S75^{\circ}30'40''W$, a Chord distance of 200.42' for an Arc length of 201.64 feet; Thence $N23^{\circ}35'30''E$ a distance of 37.02'; Thence $N18^{\circ}53'16''W$ a distance of 14.94'; Thence along a curve to the right having a radius of 385.00 feet, a Chord bearing of $N16^{\circ}31'52''W$, a Chord distance of 31.66' for an Arc length of 31.67 feet; Thence $S89^{\circ}48'19''W$ a distance of 139.39'; Thence $N0^{\circ}05'19''E$ a distance of 420.01'; Thence $S89^{\circ}48'19''W$ a distance of 595.56'; Thence $N0^{\circ}02'11''E$ a distance of 623.83' to a point on the North line of said NE/4; Thence $S89^{\circ}57'57''E$ along the North line of said NE/4 a distance of 1010.84' to the point of beginning; containing 766521.18 Sq. Ft. or 17.60 acres, more or less.

AND

A part of the Northeast Quarter (NE/4) of Section Six (6), Township Eleven (11) North, Range Five (5) West of the Indian Meridian, Canadian County, Oklahoma, more particularly described as follows:

Commencing at the Northeast corner of the NE/4 of said Section 6; Thence North 89°57'57" West along the North line of said NE/4 a distance of 60.00 feet; Thence South 0°00'03" East along the West right of way line of State Highway #92 and 60.00 feet West of and parallel with the East line of said NE/4 a distance of 1033.64 feet; Thence South 44°54'08" West a distance of 35.41 feet; Thence South 89°48'19" West and parallel with the South line of said NE/4 a distance of 103.30 feet; Thence South 85°56'09" West a distance of 88.91 feet; Thence South 89°48'19" West and parallel with the South line of said NE/4 a distance of 74.68 feet to the Point of Beginning; Thence continuing South 89°48'19" West and parallel with the South line of said NE/4 a distance of 547.71 feet; Thence along a curve to the left having a radius of 530.00 feet and a chord bearing of South 74°04'38" West and a chord distance of 287.34 feet for an arc length of 290.98 feet; Thence South 58°20'56" West a distance of 156.73 feet; Thence along a curve to the right having a radius of 470.00 feet and a chord bearing of South 82°59'37" West and a chord distance of 391.97 feet for an arc length of 404.32 feet; Thence along a curve to the left having a radius of 3030.00 feet and a chord bearing of North 72°59'15" West and a chord distance of 66.20 feet for an arc length of 66.20 feet; Thence North 0°00'00" East a distance of 201.75 feet; Thence North 90°00'00" West a distance of 114.70 feet; Thence along a curve to the left having a radius of 200.00 feet and a chord bearing of South 73°07'41" West and a chord distance of 116.09 feet for an arc length of 117.79 feet; Thence along a curve to the right having a radius of 385.00 feet and a chord bearing of North 6°45'28" West and a chord distance of 327.31 feet for an arc length of 338.07 feet; Thence along a curve to the left having a radius of 1030.00 feet and a chord bearing of North 14°20'32" East and a chord distance of 145.70 feet for an arc length of 145.82 feet; Thence North 90°00'00" East a distance of 131.53 feet; Thence North 0°02'11" East a distance of 623.83 feet to a point on the North line of said NE/4; Thence North 89°57'57" West along the North line of said NE/4 a distance of 547.42 feet; Thence South 0°03'32" East and parallel with the West line of said NE/4 a distance of 250.00 feet; Thence North 89°57'57" West and parallel with the North line of said NE/4 a distance of 250.00 feet to a point on the West line of said NE/4; Thence South 0°03'32" East along the West line of said NE/4 a distance of 2389.60 feet to the Southwest corner of said NE/4; Thence North 89°48'19" East along the South line of said NE/4 a distance of 1842.59 feet; Thence North 0°00'03" West and parallel with the East line of said NE/4 a distance of 809.90 feet; Thence North 89°48'19" East and parallel with the South line of said NE/4 a distance of 457.05 feet; Thence North 0°05'19" East a distance of 754.71 feet to the Point of Beginning.

AND

A part of the Northeast Quarter (NE/4) of Section Six (6), Township Eleven (11) North, Range Five (5) West of the Indian Meridian, Canadian County, Oklahoma, and being more particularly described as follows:

Commencing at the Northeast Corner of said NE/4 of said Section 6; Thence North 89°57'57" West along the North line of said NE/4 a distance of 60.00 feet; Thence South 00°00'03" East, and along the West right-of-way line of State Highway #92 and 60.00 feet West of and parallel with the East line of said NE/4 a distance of 1033.64 feet to the Point of Beginning; Thence continuing South 00°00'03" East, along said West right-of-way line of State Highway #92, a distance of 785.70 feet; Thence South 89°48'19" West a distance of 292.85 feet; Thence North 00°05'19" East a distance of 754.71 feet; Thence North 89°48'19" East a distance of 74.68 feet; Thence North 85°56'09" East a distance of 88.91 feet; Thence North 89°48'19" East a distance of 103.30 feet; Thence North 44°54'08" East a distance of 35.42 feet to the Point of Beginning.

LESS AND EXCEPT public rights of way for ingress and egress and conveyances to the Association of Common Areas.

EXHIBIT "C"

Initial Use Restrictions and Rules for Somers Pointe

The following restrictions, attached to and made a part of that certain Declaration of Covenants, Conditions and Restrictions for Somers Pointe, a Residential Community to the City of Oklahoma City, Canadian County, Oklahoma shall apply to all of Somers Pointe until such time as amended, modified, repealed or limited by rules of the Association adopted pursuant to Article 3 of the Declaration. Unless otherwise defined herein, words bearing initial capital letters shall have the meanings ascribed to them in the Declaration.

1. General. Somers Pointe shall be used only for residential and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of real property described in Exhibits "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with the Declaration and any Supplemental Declaration.

2. Restrictions. The following activities are prohibited at Somers Pointe unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

2.1 Parking. Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages; provided, construction, service and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area. Except as provided in Section 2.1, D of this Declaration, no Owner, leasee, tenant or occupant of a Lot, including all individuals who reside with such Owner, leasee or occupant on the Lot, shall park, keep or store any vehicle on any Lot which is visible from any street or neighboring Lot other than a passenger vehicle or pick-up truck and then only if parked on the driveway for a period not exceeding forty-eight (48) consecutive hours. For purposes of this Declaration, the term "passenger vehicle" is limited to any vehicle which displays a passenger vehicle license plate issued by the State of Oklahoma or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Oklahoma, and the term "pick-up truck" is limited to a three-quarter (3/4) ton capacity pick-up truck which has not been adapted or modified for commercial use. No passenger vehicle or pick-up truck owned or used by the residents of a Lot shall be permitted to be parked overnight on any street on the Properties. Neither the guest of an Owner, leasee or other occupant of a Lot nor the Owner shall be entitled to park on any street on the Properties overnight or on the driveway of a Lot for a period longer than forty-eight (48) consecutive hours. The Association shall have the right to cause any vehicle in violation of one or any of the foregoing restrictions to be towed in the manner provided in the Oklahoma Transportation Code;

2.2 Pets. Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that no more than two dogs, cats, or other usual and common household pets may be permitted in

a Lot, provided the total weight of such two household pets does not exceed one hundred fifty (150) pounds. However, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Lots shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed and inoculated as required by law;

2.3 Noxious, Offensive Activity. Any activity which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Lots;

2.4 Violations of Law. Any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

2.5 Healthy Environment. Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Lot;

2.6 Common Area Uses. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots;

2.7 Burning. Outside burning of any type, including without implied limitation, the burning of trash, leaves, debris, or other materials;

2.8 Audible Discharge. Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Lots, except alarm devices used exclusively for security purposes;

2.9 Firecrackers, Firearms and Explosives. Use and discharge of firecrackers and other fireworks, firearms, and other explosives, provided, the Board shall have no obligation to take action to prevent or stop such discharge;

2.10 Dumping. Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances on any Lot or Common Area and in any drainage ditch, stream, pond, or lake, or elsewhere within Somers Pointe, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff, and Declarant may dump and bury rocks and similar materials;

2.11 Accumulation of Debris. No garbage or trash shall be placed or kept within the Properties except in covered containers of a type, size and style provided by the City of Oklahoma City or in the alternative, as approved by the Design Review Board. In no event shall any such containers be maintained on a Lot so as to be visible from any Street in the Properties or any neighboring Lot except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection;

2.12 Obstructions. Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent;

2.13 Subdivision of Lots. Subdivision of a Lot into two or more Lots, or changing the boundary lines of any Lot after a subdivision plat including such Lot has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Lots which it owns;

2.14 Use of Water Areas. Swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams, or other bodies of water within Somers Pointe is prohibited; provided, however, Declarant, its successors and assigns, and the Association, after Declarant terminates the Declarant's right to annex additional land or no longer owns any Lots, shall be permitted and shall have the exclusive right and easement to retrieve materials and objects from bodies of water within the Common Areas and to draw water from lakes, ponds, and streams within Somers Pointe for purposes of irrigation and such other purposes as Declarant or, as applicable, the Association deems desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to Somers Pointe;

2.15 Investment Uses. Use of any Lot for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Lots which it owns;

2.16 Combustible Materials. On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment, except as granted by Declarant;

2.17 Business Uses. Any business, trade, or similar activity, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (ii) the business activity conforms to all zoning requirements for Somers Pointe; (iii) the business activity does not involve door-to-door solicitation of residents of Somers Pointe or constitutes a day care facility; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in Somers Pointe which is noticeably greater than that which is typical of Lots in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of Somers Pointe and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Somers Pointe, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing of a Lot shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of Somers Pointe or its use of any Lots which it owns within Somers Pointe, including the operation of a timeshare or similar program;

2.18 Wildlife. Capturing, trapping, or killing of wildlife within Somers Pointe, except in circumstances posing an imminent threat to the safety of persons using Somers Pointe;

2.19 Preservation of Natural Resources. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within Somers Pointe or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

2.20 Vehicle Storage Conversions. Conversion of any or garage to finished space for use as an apartment or other integral part of the living area on any Lot;

2.21 Operation of Motorized Vehicles. Operation of motorized vehicles, including but not limited to motorcycles, scooters, mopeds, go-carts, and golf carts, on sidewalks, pathways or trails, except that motorized carts may be operated by those requiring the same for medical purposes; and

2.22 Construction Activities. Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article 4 of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind; satellite dishes and antennas, except that:

2.22.1 an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;

2.22.2 an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

2.22.3 an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Lots, subject to such reasonable requirements as to location and screening as may be set forth in the Design Review Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of Somers Pointe, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at Somers Pointe:

3.1 Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of Somers Pointe;

3.2 Structures, equipment, or other items on the exterior portions of a Lot which have become rusty, dilapidated, or otherwise fallen into disrepair; and

3.3 Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within Somers Pointe, except that Declarant and the Association shall have the right to draw water from such sources.

3.4 Outbuildings, Temporary Structures. No temporary sheds, outbuildings, or temporary accessory buildings are allowed. Any sheds, outbuildings, or accessory buildings of a permanent nature must obtain Design Review Board approval prior to installation pursuant to Article 4 of the Design Review Guidelines.

4. Leasing of Lots. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Series to Series. Notice of any lease, premises leased and lessee, together with such additional information as may be required by the Board, shall be given to the Board by the Lot Owner within ten (10) days of execution of the lease. The Lease must be in a form approved by the Association and must require and the Owner must make available to the lessee copies of the Declaration, Bylaws, and the Rules and Use Regulations.

EXHIBIT "D"

**BYLAWS OF SOMERS POINTE PROPERTY
OWNERS ASSOCIATION, INC.**

-TABLE OF CONTENTS-

	<u>Page</u>
ARTICLE SECTION	
1. NAME, PRINCIPAL OFFICE, AND DEFINITIONS	3
1.1 Name	3
1.2 Principal Office	3
1.3 Definitions	3
2. ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES	3
2.1 Membership	3
2.2 Place of Meetings	3
2.3 Annual Meetings	3
2.4 Special Meetings	3
2.5 Notice of Meetings	3
2.6 Waiver of Notice	4
2.7 Adjournment of Meetings	4
2.8 Voting	4
2.9 Proxies	4
2.10 Majority	5
2.11 Quorum	5
2.12 Conduct of Meetings	5
2.13 Action without a Meeting	5
3. BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS	6
A. Composition and Selection	6
3.1 Governing Body; Composition	6
3.2 Number of Directors	6
3.3 Directors during Class 'B' Control Period	6
3.4 Nomination and Election Procedures	6
3.5 Election and Term of Office	7
3.6 Removal of Directors and Vacancies	7
B. Meetings	8
3.7 Organizational Meetings	8
3.8 Regular Meetings	8
3.9 Special Meetings	9
3.10 Waiver of Notice	9
3.11 Telephonic Participation in Meetings	9
3.12 Quorum of Board	9

	3.13 Compensation	9
	3.14 Conduct of Meetings	9
	3.15 Notice to Owners; Open Meetings	10
	3.16 Action without a Formal Meeting	10
C.	Powers and Duties	10
	3.17 Powers	10
	3.18 Duties	10
	3.19 Right of Class 'B' Member to Disapprove Actions	11
	3.20 Management	12
	3.21 Accounts and Reports	12
	3.22 Borrowing	13
	3.23 Right to Contract	13
	3.24 Enforcement	13
4. OFFICERS		15
	4.1 Officers	15
	4.2 Election and Term of Office	15
	4.3 Removal and Vacancies	15
	4.4 Powers and Duties	15
	4.5 Resignation	15
	4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc.	15
	4.7 Compensation	15
5. COMMITTEES		15
	5.1 General	15
	5.2 Covenants Committee	16
	5.3 Series Committees	16
6. MISCELLANEOUS		16
	6.1 Fiscal Year	16
	6.2 Parliamentary Rules	16
	6.3 Conflicts	16
	6.4 Books and Records	17
	6.5 Notices	17
	6.6 Amendment	18

BYLAWS OF SOMERS POINTE PROPERTY OWNERS ASSOCIATION, INC.

Article 1 Name, Principal Office, and Definitions

1.1 Name. The name of the corporation is Somers Pointe Property Owners Association, Inc. (the "Association").

1.2 Principal Office. The principal office of the Association shall be 1000 West Wilshire Avenue, Suite 308, Oklahoma City, Oklahoma. The Association may have such other offices, either within or outside the State of Oklahoma as the Board of Directors may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meanings set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Somers Pointe, a Residential Community in the City of Oklahoma City, Canadian County, Oklahoma recorded with the Canadian County Clerk on October 22, 2004 in Book 2987 page 544 as amended, unless the context herein indicates otherwise.

Article 2 Association Membership, Meetings, Quorum, Voting, Proxies

2.1 Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration and incorporated herein by this reference.

2.2 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate.

2.3 Annual Meetings. The first meeting of the Members of the Association, whether a regular or special meeting, shall be held at such time as the Declarant, in the Declarant's sole discretion, determines a sufficient number of Lots are owner-occupied. Meetings shall be of Members and, if required by law, shall be open to all Members. Subsequent regular annual meetings shall be set by the Board to occur during the fourth quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4 Special Meetings. Subject to the Declarant's discretion, the President may call special meetings. In addition, it shall be the duty of the President, subject to Declarant approval, to call a special meeting if so directed by resolution of the Board, upon a petition signed by Members representing at least twenty-five percent (25%) of the total Class "A" votes of the Association.

2.5 Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of Members shall be posted at each entrance to Somers Pointe or delivered, either personally or by mail, to each Member entitled to vote at such meeting, and, if required by law,

to all Members not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

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

If mailed, the notice of a meeting shall be deemed to be delivered three (3) days after deposit in the United States mail addressed to the Member at such Member's address as it appears on the records of the Association, with postage prepaid. If posted, the notice of a meeting shall be deemed delivered three (3) days after such notice is posted at each entrance to Somers Pointe.

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

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of Members who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8 Voting. The voting rights of the Members shall be as set forth in the Declaration and in these Bylaws, and such voting rights provisions in the Declaration are specifically incorporated herein by this reference.

2.9 Proxies. On any matter as to which a Member is entitled personally to cast the vote for a Lot, such vote may be cast in person, by written ballot, or by proxy, subject to the limitations of Oklahoma law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these Bylaws.

Every proxy shall be in writing specifying the Lot for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. If such proxies have not been properly completed or returned in a timely fashion to the Secretary and a Member or such Member's duly authorized attorney-in-fact does not personally appear at a meeting, the vote of the Member shall be deemed to have been given to the Declarant for quorum and voting purposes. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. In the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid; however, such conflicting proxies shall be counted for purposes of determining the presence of a quorum.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Lot for which it was given; (b) receipt by the Secretary of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) on the date specified in the proxy.

2.10 Majority. As used in these Bylaws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total eligible number thereof.

2.11 Quorum. Except as otherwise provided in these Bylaws or in the Declaration, the presence of Members representing a majority of the total Class "A" votes in the Association shall constitute a quorum at all meetings of the Association. Any Member or their duly authorized attorney-in-fact not personally present at a meeting and who has not properly completed or returned their proxy in a timely fashion to the Secretary shall be deemed to have given to the Declarant the vote of such Member for quorum and voting purposes.

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

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

Article 3 Board of Directors: Number, Powers, Meetings

A. COMPOSITION AND SELECTION.

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or residents; provided, however, no Owner and resident representing the same Lot may serve on the Board at the same time. A "resident" shall be any natural person eighteen (18) years of age or older whose principal residence is a Lot within Somers Pointe. In the case of a Member which is not a natural person, any officer, director, partner or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2 Number of Directors. The Board shall consist of no less than three (3) or more than nine (9) directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three directors as identified in the Articles.

3.3 Directors During Class "B" Control Period. Subject to the provisions of Section 3.5 of these Bylaws, the directors, including Series Board Members, shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

- (a) when the Class B Control Period should cease; or
- (b) when, in its discretion, the Class "B" Member so determines.

3.4 Nomination and Election Procedures.

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

Except with respect to Directors selected by the Class "B" Member, nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee, if any, shall consist of a Chairman, who shall be a member of the Board, and three or more Members or representatives of Members, with at least one (1) representative from each Series. The members of the Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting to serve a term of one (1) year and until their successors are appointed, and such appointment shall be announced in the notice of each election.

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

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

(2) **Election Procedures.** Each Member may cast all votes assigned to the Lots which such Member represents for each position to be filled from the slate of candidates on which such Member is entitled to vote. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5 Election and Term of Office. Notwithstanding any other provision of these Bylaws:

(1) During the Class "B" Control Period, the Declarant shall have the right in its sole discretion to appoint each member of the Board. The Declarant may, but shall not be required to, appoint a resident Owner to the Board during the Class "B" Control Period. The fact that the Declarant has in the past appointed a resident Owner to the Board shall not require the Declarant to continue with such appointments.

(2) After termination of the Class "B" Control Period, the Class "B" Member shall be entitled to appoint one Director, unless the Declarant waives such right in a Recorded instrument. Such Director shall be elected for a term of two years and shall not be subject to removal by the Members. Upon the sole discretion of the Class B Member, the Class B Member appointee may resign, their position to be filled by the Members at the next election of Directors. Within ninety (90) days after termination of the Class "B" Control Period, the Board shall be increased to nine Directors and an election shall be held. Eight (8) directors shall be elected by Members, with an equal number of Directors elected by Members representing each Series and any remaining directorships filled at large by the vote of all Members. Five (5) Directors shall serve a term of two (2) years, and four (4) Directors shall serve a term of one (1) year, as such directors determine among themselves. The Directors elected by Members shall not be subject to removal by the Class "B" Member.

Upon the expiration of the term of office of each Director elected by Members, Members entitled to elect such director shall be entitled to elect a successor to serve a term of two (2) years. The Directors elected by Members shall hold office until their respective successors have been elected.

3.6 Removal of Directors and Vacancies. Any Director elected by Members may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such Director. Any Director whose removal is sought shall

be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall be elected by Members entitled to elect the Director so removed to fill the vacancy for the remainder of the term of such Director.

Any Director elected by Members who has three consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

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

If a Series Board Member is removed, resigns, or is otherwise unable to serve, any Director whom the Board appoints shall be selected from among Members within the Series represented by the Director who vacated the position.

This Section shall not apply to Directors appointed by the Class "B" Member. The Class "B" Member shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a Director appointed by or elected as a representative of the Class "B" Member.

B. MEETINGS.

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

3.8 Regular Meetings. Regular annual meetings of the Board may be held at such time and place a majority of the Directors shall determine. Notice of the time and place of a regular meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

3.9 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) facsimile, computer, fiber optics or such other communication device. All such notices shall be given at the Director's telephone number, fax number, electronic mail number, or sent to the Director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least seven

business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least seventy-two (72) hours before the time set for the meeting.

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

3.11 Telephonic Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

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

3.13 Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board, excluding the interested Director.

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

3.15 Notice to Owners; Open Meetings. Except in an emergency, notice of the time and place of Board meetings shall be posted at least forty-eight (48) hours in advance of the meeting at a conspicuous place within Somers Pointe which the Board establishes for the posting of notices relating to the Association. Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment. Subject to the provisions of Section 3.16 of these Bylaws, all meetings of the Board shall be open to all Members and, if required by law, all Owners, but attendees other than Directors may not participate in any discussion or deliberation unless permission to speak is authorized by a vote of the majority of a quorum of the Board. In such case, the President may limit the time any such individual may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than Directors, to discuss any or all of the following:

- (a) employment or personnel matters for employees of the Association;
- (b) legal advice from an attorney retained for the Board or the Association;
- (c) pending or contemplated litigation; or
- (d) pending or contemplated matters relating to enforcement of the Governing Documents.

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

C. POWERS AND DUTIES.

3.17 Powers. The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, these Bylaws, the Articles, and as provided by law. The Board may do or cause to be done all acts and things which the Declaration, Articles, these Bylaws, or Oklahoma law do not direct to be done and exercised exclusively by Members or the membership generally.

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

- (1) preparing and adopting, in accordance with the Declaration, an annual budget and establishing each Owner's share of the Common Expenses and any Series Expenses;
- (2) providing for the operation, care, upkeep, and maintenance of the Common Area;
- (3) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (4) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve funds may be deposited, in the Board's best business judgment, in depositories other than banks;

- (5) making and amending use restrictions and rules in accordance with the Declaration;
- (6) opening of bank accounts on behalf of the Association and designating the signatories required;
- (7) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these Bylaws;
- (8) enforcing the provisions of the Declaration, these Bylaws, and the rules adopted pursuant thereto and bringing any legal proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;
- (9) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (10) paying the cost of all services rendered to the Association;
- (11) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (12) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;
- (13) indemnifying a Director, officer or committee member, or former Director, officer, or committee member of the Association to the extent such indemnity is authorized by Oklahoma law, the Articles of Incorporation, or the Declaration;
- (14) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration;

3.19 Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of Declarant or Builders under the Governing Documents, or interfere with development or construction of any portion of Somers Pointe, or diminish the level of services being provided by the Association.

(1) **Notice.** The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Sections 3.8, 3.9, 3.10, and 3.11 of these Bylaws and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth with reasonable particularity the agenda to be followed at such meeting.

(2) **Opportunity to be Heard.** The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the

floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (1) and (2) above have been met.

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

3.20 Management. The Board may employ for the Association a professional manager agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The manager may be a corporation or an individual. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policymaking authority or those duties set forth in Sections 3.18(1), 3.18(2), 3.18(5)-(6), 3.18(8) and 3.18(13) and (14) of these Bylaws. Declarant or an affiliate of Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the manager, if any, which might arise between meetings of the Board.

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

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

- (1) cash accounting, as defined by generally accepted accounting principles, shall be employed;
- (2) accounting and controls should conform to generally accepted accounting principles;
- (3) cash accounts of the Association shall not be commingled with any other accounts;

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

(5) any financial or other interest which the manager may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

3.22 Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Member approval in the same manner provided in Section 8.4 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year. During the Class "B" Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Members representing at least 51% of the total Class "A" votes in the Association.

3.23 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Series and other owners or residents associations, within and outside the Properties. Any common management agreement shall require the consent of an absolute majority of the Board.

3.24 Enforcement. The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of any duty imposed under Governing Documents. In the event that any occupant, tenant, employee, guest, or invitee of a Lot violates the Declaration, Bylaws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; Provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association.

The Association shall not be obligated to take any enforcement action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may, but shall not be obligated to, enforce applicable city and county ordinances, if applicable, and may, but shall not be obligated to, permit Canadian County or the City of Oklahoma City to enforce ordinances within the Properties for the benefit of the Association and the Members.

In conducting the business of the Association, the Board, at all times, shall act within the scope of the Governing Documents and in good faith to further the legitimate interests of the Association and the Members. In fulfilling its governance responsibilities, the Board shall limit its actions to those reasonably related to the Association's purposes; those reasonably related to

or within the Association's powers, as provided by the Governing Documents and as provided by the laws of the State of Oklahoma; and those that are reasonable in scope. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in Governing Documents.

(1) **Notice.** Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article 5 of these Bylaws; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided that the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

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

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

(4) **Additional Enforcement Rights.** Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Bylaws, or the Use Restrictions and Rules by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) or, following compliance with the dispute resolution procedures set forth in Article 13 of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Lot for purposes of exercising this power of self-help shall not be deemed a trespass.

Article 4 Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

4.2 Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of Members, to serve until their successors are elected.

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

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

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

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

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

Article 5 Committees

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

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

5.3 Series Committees. In addition to any other committees appointed as provided above, each Series which has no formal organizational structure or association may elect a Series Committee to determine the nature and extent of services, if any, to be provided to the Series by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Series Committee may advise the Board on any other issue, but shall not have the authority to bind the Board. Each Series Committee, if elected, shall consist of three to five Members, as determined by the vote of at least fifty-one percent (51%) of the Owners of Lots within the Series.

Series Committee members shall be elected for a term of one (1) year or until their successors are elected. Any Director elected to the Board from a Series shall be an ex officio member of the Series Committee. The Member representing such Series shall be the chairperson of the Series Committee, shall preside at meetings and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Series Committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.8, 3.9, 3.10, and 3.11 of these Bylaws. Meetings of a Series Committee shall be open to all Owners of Lots in the Series and their representatives. Members of a Series Committee may act by unanimous written consent in lieu of a meeting.

Article 6 Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be a calendar year, unless the Board establishes a different fiscal year by resolution.

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

6.3 Conflicts. If there are conflicts among the provisions of Oklahoma law, the Articles, the Declaration, or these Bylaws, the provisions of Oklahoma law (unless displaceable by the Governing Documents), the Declaration, the Articles, and the Bylaws (in that order) shall prevail.

6.4 Books and Records.

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

(2) **Rules for Inspection.** The Board shall establish rules with respect to: (i) notice to be given to the custodian of the records; (ii) hours and days of the week when such an inspection may be made; and (iii) payment of the cost of reproducing documents requested.

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

(4) **Exceptions to Inspection Requirement.** Notwithstanding any provision to the contrary, the Board shall not be required to make available for inspection any portion of any book or record which relates to any of the following:

- (i) personnel matters or a person's medical records;
- (ii) communication between an attorney for the Association and the Association;
- (iii) pending or contemplated litigation;
- (iv) pending or contemplated matters relating to enforcement of the Governing Documents; or
- (v) meeting minutes or other records of a session of a Board or Association meeting that is not required by law to be open to all Members.

In addition, the Board shall not be required to disclose or make available for inspection any financial or other records of the Association if disclosure would violate local, state, or federal law.

6.5 Notices. Except as otherwise provided in the Declaration or these Bylaws, all notices, demands, bills, statements, or other communications under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if posted at each entrance to Somers Pointe, delivered personally, or if sent by United States mail, first class postage prepaid:

- (1) if to a Member or Members, at the address which the Member or Members has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member or Members;
- (2) if to the Association, the Board, or the manager, at the principal office of the

Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section; or

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

6.6 Amendment.

(1) **By Class "B" Member.** Prior to termination of the Class "B" Control Period, the Class "B" Member may unilaterally amend these Bylaws. Thereafter, the Class "B" Member may unilaterally amend these Bylaws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

(2) **By Members Generally.** Except as provided above and Oklahoma law, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing fifty-one percent (51%) of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. In addition, the approval requirements set forth in Article 14 of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(3) **Validity and Effective Date of Amendments.** Amendments to these Bylaws shall become effective upon adoption pursuant to Section 6.6(1) or (1) as applicable unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of the adoption of the amendment, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

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

CERTIFICATION

I, the undersigned, do hereby certify: I am the duly elected and acting Secretary of Somers Pointe Property Owners Association, Inc., an Oklahoma corporation; the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 15th day of April, 2003.

BOOK	PAGE
2987	627

IN WITNESS WHEREOF, I have hereunto subscribed my name of said Association the same date as written above.

/s/ Vernon McKown

Vernon McKown, Secretary

EXHIBIT "E"

Calculation of Initial Annual Assessments

Series	Base Assessment
Somers Villas	\$360.00
Somers Village	\$130.00
Somers Ridge	\$100.00
Somers Park	\$200.00

Exhibit "F"

**Design Review Guidelines for
Somers Pointe,
a residential community**

DISCLAIMER

All plans, dimensions, improvements, amenities, features, uses, specifications, materials and availability depicted herein are subject to change without notice. Any illustrations are for depiction only and may differ from completed improvements. Capitalized terms shall have the meanings set forth in that certain Declaration of Covenants, Conditions, and Restrictions for Somers Pointe, a Residential Community in the City of Oklahoma City, Canadian County, Oklahoma recorded with the Canadian County Clerk on October 22, 2004 in Book 2987 page 544, as amended, unless the context herein indicates otherwise.

These Design Review Guidelines are not intended to be a complete list of all criteria that must be satisfied in connection with construction of improvements. Compliance with these Design Review Guidelines does not assure approval of any particular designs. Declarant, or Design Review Board as the case may be, reserves the right to approve particular designs which vary from or otherwise do not comply with these Design Review Guidelines.

These Design Review Guidelines are a mechanism for maintaining and enhancing the overall aesthetics of Somers Pointe; they do not create any duty to any person. Review and approval of any designs may be based on aesthetic considerations only. Declarant, Somers Pointe Property Owners Association, or the Design Review Board shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for ensuring compliance with building codes and other governmental requirements, or for ensuring that every structure is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other owners of property in Somers Pointe. Declarant makes no warranty, express or implied, that the information or guidelines contained herein are suitable for any particular use, and hereby disclaims any liability in connection with the use of this information.

1. INTRODUCTION

1.1. Purpose.

Somers Pointe is a planned community comprising real property in Canadian County, State of Oklahoma. The purpose of the Somers Pointe development is to provide a high quality, aesthetically pleasing residential community, while preserving the natural beauty of the area and enhancing the value of each Owner's investment. The purpose of the Design Review Guidelines and Design Review Board is to meet the overall Somers Pointe purpose by assisting in the building design process. As a general rule, the Design Review Guidelines and Design Review Board will not dictate any particular architectural style or hinder personal design preferences. The Design Review Guidelines and Design Review Board will strive to maintain an aesthetic flow between the interrelated Series. Traditional design details may be incorporated in the Design Review Guidelines, but any styles that tend to disrupt aesthetic harmony will be discouraged.

1.2. Scope.

The Design Review Guidelines and Design Review Board oversight apply to all modifications as defined within the Governing Documents. Modifications include new construction and the alteration of or additions to existing construction.

1.3. Amendments.

The Design Review Board may amend, cancel, add to, modify, or otherwise change these Design Review Guidelines from time to time as necessary in the Design Review Board's sole discretion. The Design Review Board shall send notice of any changes by mail to all Owners at least five business days prior to implementation of any new design guideline. Such mailing, or failure thereof, shall not relieve each Owner of their obligation to determine applicable design guidelines prior to making any new construction or modification.

1.4. Compliance with Local Law.

The Design Review Board is not responsible for notice of or ensuring compliance with building codes, structural details, local, state, federal law, or environmental agency compliance.

1.5. Limitation of Liability.

The Design Review Board is not responsible and shall bear no liability for the accuracy of drawings and techniques of construction. The Design Review Board shall bear no liability and is not responsible for workmanship, safety, or quality of new construction or modification based upon its review and decision of an application.

2. DESIGN REVIEW PROCEDURES

2.1. Applicability.

These Design Review Guidelines apply to all new construction and modifications. Other examples include by illustration only antenna and satellite receivers, outdoor sculptures or artwork, storm doors, security doors, windows, storm windows and siding.

2.2. Design Review Board.

Oversight of the DRG is vested in the Design Review Board, unless otherwise delegated or assigned to an Architectural Review Committee. The Design Review Board shall consist of at least three and no more than five persons appointed by and serving at the Board's discretion. Members of the Design Review Board may include architects or similar professionals who are not Owners.

The Design Review Board may adopt detailed application and review procedures and design standards governing its area of responsibility consistent with the Declaration. All new construction and modifications shall take place in strict compliance with the Declaration, these Design Review Guidelines, and the application and review procedures promulgated by the Design Review Board.

2.3. Review Fees.

The Design Review Board may establish a review fee schedule applicable to the oversight of administering the Design Review Guidelines.

2.4. Review Standards.

As provided in the Governing Documents, the Design Review Board shall approve any new construction or modification only if it deems, in its discretion, that new construction and Modifications conform to and harmonize with the existing surroundings, residences, landscaping, and structures, and meets the requirements for such new construction and modifications found in the Governing Documents, these Design Review Guidelines, and procedures promulgated by the Design Review Board.

The Design Review Board evaluates all submissions on the merits of the application. Besides evaluation of the particular design proposal, this includes the consideration of the characteristics of the housing type and the individual site.

Design decisions are not based on personal opinion or taste. Judgments of acceptable design are based on the following standards, which are presented in more specific form within Sections 3 and 4 to these Design Review Guidelines.

Compliance with the Governing Documents. All applications are reviewed to confirm that the proposed new construction or modification is in conformance with the Governing Documents.

Relation to the Natural Environment. All applications are reviewed to confirm that the proposed new construction or modification represents a positive or neutral effect on the surrounding natural environment. For example, fencing materials can have a deleterious effect on the feel of an open environment.

Validity of Concept. All applications are reviewed to confirm that the proposed new construction or modification is sound in concept and appropriate to its surroundings.

Design Compatibility. All applications are reviewed to confirm that the proposed new construction or modification is compatible with the architectural characteristics of existing

structures both on the Lot and in the vicinity. Compatibility is defined as similarity in architectural style, quality of workmanship, similar use of materials, color, and construction details.

Location and Impact on Neighbors. All applications are reviewed to confirm that the proposed new construction or modification relates favorably to the landscape, the existing structures on the Lot and in the vicinity. Primary issues of concern are access, drainage, sunlight, and ventilation. When new construction or Modification has particular impact upon Lots in the vicinity, the Design Review Board may require the applicant to discuss the proposal with Lot Owners in the vicinity prior to the Design Review Board making a decision on the application. The Design Review Board may also require the submittal of comments from Lot Owners in the vicinity.

Scale. All applications are reviewed to confirm that the proposed new construction or modification relates well to the size, in three (3) dimensions, of existing structures on Lots in the vicinity. For example, additions to an existing structure that would place the square footage of the structures on a Lot in disproportion to structures on Lots in the vicinity may be inappropriate.

Color. All applications are reviewed to confirm that the proposed new construction or modification conforms to the colors represented on the existing structures on the Lot and on Lots in the vicinity.

Materials. All applications are reviewed to confirm that the proposed new construction or modification utilizes materials of the same or compatible nature as were used on existing structures on the Lot or on Lots in the vicinity.

Workmanship. All applications are reviewed to confirm that the proposed new construction or modification would entail workmanship of an equal or better quality than that represented on existing structures on the Lot or on Lots in the vicinity.

Timing. All applications are reviewed to confirm that the proposed new construction or modification may be completed in a timely manner, whether an Owner performs such work themselves or contracts the work to be done.

2.5. Review Process for New Construction and Modifications.

Prior to making application to the Design Review Board, Owners are encouraged to meet with a representative of the Design Review Board to avoid confusion about the approval process and to determine the acceptability of their design intent. The Owner should also obtain a current copy of the Design Review Guidelines and applicable forms.

Prior to commencing any new construction or modifications, an Owner shall submit to the Design Review Board an application for approval in such form as the Design Review Board shall require. An acceptable application appears as Exhibit 1 to these Design Review Guidelines. Such application shall include Plans showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Design Review Board, Architectural Review Committee, the Declaration, or these Design Review Guidelines may require the

submission of such additional information as may be reasonably necessary to consider any application. For consideration, the application must be received by the Design Review Board before 5:00 p.m. five (5) days prior to the scheduled meeting of the Design Review Board. The Design Review Board will meet on a regular basis as determined by the Design Review Board. Late submissions will not be reviewed until the next meeting of the Design Review Board.

In reviewing each submission, the Design Review Board will consider the application based on the Review Standards. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements.

Within 30 days after receipt of a completed application and all required information, the Design Review Board shall respond in writing to the applicant at the address specified in the application. The response may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The Design Review Board may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Design Review Board fails to respond to a properly submitted application in a timely manner, approval shall be deemed to have been given, subject to Declarant's right to veto approval by the Design Review Board pursuant to this Section. Any approval inconsistent with the Declaration or these Design Review Guidelines is void unless a variance has been granted pursuant to Section 4.5 of the Declaration.

The Design Review Board shall notify Declarant, so long as Declarant owns any property described in Exhibits "A" or "B," and the Design Review Board in writing within three (3) business days after the Design Review Board has approved any application relating to proposed modifications unless Declarant or the Design Review Board, respectively, waives, in writing, its right to such notification. The notice shall be accompanied by a copy of the application and any additional information which the Design Review Board may require. Declarant, so long as Declarant owns any of the Properties and the Design Review Board shall have ten (10) days after receipt of such notice to veto any such action, in the sole discretion of each, by written notice to the Design Review Board and the applicant.

If construction does not commence on a new construction or modifications project for which plans have been approved within one (1) year after the date of approval, such approval shall be deemed withdrawn and the Owner shall reapply for approval before commencing the proposed modifications. "Commencement" shall begin upon such actions as, but not limited to, delivery of materials and labor exerted relative to the new construction or modification. After construction is commenced, it shall be diligently pursued to completion. All new construction or modifications shall be completed within one (1) year after commencement unless otherwise specified in the notice of approval or unless the Design Review Board grants an extension in writing, which it shall not be obligated to do. Any new construction or Modifications not completed within the required time shall be considered nonconforming and shall be subject to enforcement action by the Design Review Board, the Association, Declarant or any aggrieved Owner.

The Design Review Board, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of a Lot without approval provided such alterations do not affect the aesthetics of the exterior of the Lot as they appear prior to the alteration. Modifications to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structure shall be subject to approval. This Section shall not apply to the activities of Declarant or to activities of the Association during the Class "B" Control Period.

3. CONSTRUCTION GUIDELINES AND PROCEDURES

3.1. Construction Drawings.

All proposed new construction or Modification requires Design Review Board review, which comes only as a result of a properly submitted application. The application must include construction drawings of the proposed improvement. Depending on the type of new construction or modification, the Design Review Board may require less or more construction drawings for a proper application. Construction drawings include, but are not limited to:

Site Plan. A site plan must be submitted with the application and will include:

- 4.1. **Site survey** with property lines or a site plan based on the recorded plat;
- 4.2. **Elevation drawings** showing elevations of the property corners, center of building or existing structures, culvert inlets, edge of roadway and finished floor elevations;
- 4.3. **Vegetation diagram** showing the location and species of trees 3" in diameter or larger at 48" from the ground;
- 4.4. **Setback lines**;
- 4.5. **Building outline** including service yard and front and rear corner of adjacent buildings;
- 4.6. **Paved area diagram** including drives, parking areas, walks, patios, etc.;
- 4.7. **Drainage and grading plan** if the proposed construction disturbs any dirt or would alter in any manner the flow of storm water or run-off;
- 4.8. **Special features locations**, such as easements, common areas, walls, etc.;
- 4.9. **Utility elements** and improvements, such as utility meters, etc.

Floor Plan. A floor plan must be submitted that details square footage per level and total and showing the roof outline, entry steps, service yard details such as screening and all other architectural features.

Roof Plan. A roof plan must be submitted that indicates roof pitch, an outline of the building walls below, the roof outline, dormers, and any other pertinent features.

Elevation Drawings. Elevation drawings must be submitted to include all four elevations, indicate existing grades and finished grades, exterior finishes of materials, roof pitch, window and door designs, service yard enclosure, screening of meters and equipment and any other pertinent information such as the windscreen for the chimney.

Color and Materials Specifications. Color and materials specification to be used must be identified in the application. If requested by the Design Review Board, samples of both color and materials are to be submitted to the Design Review Board in a form provided by the Design Review Board in their request.

Detail Drawings. Detail drawings must be submitted showing wall sections, service area enclosure details, and other architectural details. A schedule of window types and finish colors would help in the review process.

Electric Plan. An electric plan must be submitted to show the location of the meter setting, locations and specification and fixtures of exterior lighting including security lighting and other electrical equipment for pools, etc.

Landscape Plan. A landscape plan must be submitted to show the general design plan for site landscaping.

Grading Plan. A grading plan must be submitted indicating drainage plan, any proposed grade changes and proposed erosion control devices.

3.2. Changes After Approval of Final Construction Plans

Any plans or applications altered in any manner from plans or applications initially reviewed by the Design Review Board shall be re-submitted to the Design Review Board for review.

3.3. Construction Guidelines.

3.3.1. GENERAL.

These Construction Guidelines are intended for compliance by all contractors, subcontractors, material suppliers, maintenance personnel and any others engaged in construction or related activity in Somers Pointe. These Design Review Guidelines are not intended to restrict, penalize or impede construction activity during reasonable performance of duties while within Somers Pointe. Rather, they will be enforced fairly to achieve the objectives enumerated below and in the Governing Documents and to facilitate orderly and controlled construction activity, thereby preserving the overall quality of Somers Pointe's appearance. Violations are subject to assessments and repeated violations may be cause for denial of access.

3.3.2. GUIDELINES.

1. **Site Clearing.** Site clearing or construction on any property within Somers Pointe is not permitted without first submitting application and obtaining final approval from the Design Review Board.
2. **Trash Receptacles.** Each building site must have a trash receptacle for construction debris and is to be emptied or removed when full. When and where appropriate and with approval of the Design Review Board, contractors may coordinate sharing of trash receptacles. The dumping of construction trash is not permitted inside Somers Pointe and must be removed by

covered truck. Wind-blown trash pickup is required. Any default by an Owner or contractor under this section shall be remedied within twenty-four (24) hours of notice of such default.

3. **Portable Toilets.** Clean and sanitary conditions are required for all toilets. When and where appropriate and with approval of the Design Review Board, contractors may coordinate sharing of portable toilets. In all respects, the Design Review Board will seek to lessen the aesthetic impact and total number of portable toilets in Somers Pointe during construction.
4. **Nuisances and Construction Hours.** No loud speakers are permitted on building sites. Inappropriate volume levels on radios, stereos, etc. will not be permitted. All construction activities shall be undertaken with care to minimize interference with traffic and to protect the general public, surrounding communities and homeowners. Construction activities shall occur only during the hours of 6 a.m. to 8 p.m. Central Standard Time.
5. **No Pets.** Pets are not allowed on building sites.
6. **Compliance with Design Review Board Approval.** All buildings and landscape plans must be approved in writing by the Design Review Board, and the owner and the building contractor are jointly responsible that approved plans are followed in all aspects with respect to the exterior of the house and grounds. Construction is to be complete to a point of having the exterior finished and landscaping in place in accordance with the approved plan within twelve (12) months of commencement. Any change to the exterior of the house, siding, driveway, garage, etc., must receive prior approval from the Design Review Board.
7. **Signs.** To minimize visual clutter, the Design Review Board has a job site sign standard to be used on all construction sites. A sign stanchion specification will be provided by Design Review Board. Individual contractors will be responsible for providing a sign stanchion per design specifications. Contact the Design Review Board for placement and coordination.
8. **Erosion Control.** Each owner shall be responsible for the installation and maintenance of all necessary erosion control devices and shall at all times keep erosion control devices in good working order. Any failure of erosion control devices and subsequent clean-up shall be the responsibility of the owner. In the event landscaping is delayed to meet optimal planting seasons, owner shall be responsible for establishing and maintaining turf to minimize erosion. Receipt of a Design Review Board acknowledgement of compliance will depend upon compliance with erosion control provisions. Any default by an Owner or contractor of erosion control pursuant to this section shall be remedied within twenty-four (24) hours of notice of such default.
9. **Repair to Damaged Property.** Damage or scarring to other property, including, but not limited to, open space, other Lots, roads, driveways, sidewalks and/or other improvements whether surface or subsurface will not be permitted. If any such damage occurs, it shall be repaired and/or restored promptly at the expense of the person causing the damage. Upon completion of construction, each contractor shall clean the construction site and repair all property, whether above surface or subsurface, which was damaged, including, but not limited to, restoring grades, planting shrubs and trees as approved or required by the Design Review Board and repairing streets, driveways, pathways, sidewalks, culverts, ditches, signs, lighting, and fencing, etc.
10. **Schedule of Assessments for Violations of the Design Review Guidelines for Somers Pointe.** The following is a Schedule of Assessments that will be enforced when a contractor or owner violates the Governing Documents and/or these Design Review Guidelines. The

assessments collected will be used for grounds beautification in Common Areas and will not be refunded to the contractor or owner. Assessments will be charges against the Lot and may prevent transfer of the Lot or frustration of construction/permanent financing. Assessments levied by the Design Review Board due to violations may be appealed, in writing, with appropriate justification, to the Chairman of the Design Review Board. The Schedule of Assessments may be amended by the Design Review Board to meet the needs of the Property as development continues. Such amendments shall occur as provided under Section 1.3 of the Design Review Guidelines.

Schedule of Assessments

The Violation

Assessment

- Violations of 3.3.2.2 above shall be assessed the actual cost of clean up plus \$100.00.
- Violations of 3.3.2.8 above shall be assessed the actual cost of clean up plus \$100.00.
- Other violations of the Governing Documents, including Design Review Guidelines shall be assessed \$5.00 per day. A notice of violation shall be sent certified mail to the Owner or contractor, and any assessment shall accrue on a daily basis beginning 72 hours after the Owner or contractor receives such notice. Otherwise, any assessment shall accrue beginning 72 hours of actual notice of the violation.

4. DESIGN STANDARDS

PLEASE NOTE THAT DESIGN STANDARDS MAY VARY BY SERIES. BE SURE TO DETERMINE THE APPLICABLE STANDARD FOR YOUR SERIES.

In addition to the design standards contained elsewhere in these Design Review Guidelines, the following design review standards apply to Lots within a particular Series. The term "Design Review Board" within each Series-Specific Design Standard shall refer to the applicable Design Review Board for that Series as provided for within Section 4 to the Declaration.

Series-Specific Design Standards

Somers Park Series

Orientation. Lots must conform to the house and utility orientation plan determined and provided by the Design Review Board. Exceptions to the orientation plan may be granted in the sole discretion of the Design Review Board.

Building size and set back requirements. The minimum square footage of the Lot shall be no less than 1800 square feet exclusive of basements, open porches, and garages for a single story dwelling. The minimum square footage of the Lot shall be no less than 2000 square feet exclusive of basements, open porches, and garages for a two-story dwelling. Front yard and side yard set backs must conform to City ordinance. Structures shall not have more than two-stories.

Foundation and Brick. Brick on all houses shall continue to ground level, except where pier and beam foundations are approved. In any instance where the foundation or other non-brick or rock facade is not continued to the ground, landscaping must be placed to cover or screen said area from view from front street.

Material. The exterior of all houses must be at least eighty percent (80%) masonry or rock construction. No siding shall be used except gable ends and porches located on the rear of the house, which are recessed a minimum of six (6) feet from the rear building line of the house, and are enclosed on three sides. Special variances for port-a-cache's and special building plans may be granted by the Design Review Board, however in no circumstances shall any dwelling be less than seventy-five percent (75%) masonry or brick. For the purposes of these Design Review Guidelines cement-fibrous board (Commonly known as Hardi-Plank) is NOT considered masonry material.

Height. The maximum height for a structure must not exceed City ordinance standards and must receive prior approval from the Design Review Board.

Roofs. All roofs shall be completed using shingles approved by the Design Review Board prior to installation of decking. The roofs shall have a minimum pitch slope of 7 to 12.

Roof Accessories and Equipment. Design Review Board approval is required for rooftop equipment and accessories, unless specifically excepted in this paragraph. All rooftop equipment must match roofing colors or be of a color that complements the house and must be placed as inconspicuously as possible. Exposed flashing, gutters and downspouts must be painted to match the fascia and siding of the structure unless otherwise approved by the Design Review Board. No exposed attachment straps will be allowed. Design Review Board approval is not required for skylights having measurements of 3' x 5' or less. Skylights should be placed in locations so as not to detract from the building elevations. Any installed solar energy equipment shall have the appearance of a skylight, shall have a finished trim material or curb, and shall not be visible from the street or Common Area.

Driveways. Asphalt drives and parking areas are not permitted. Driveways and parking areas must be concrete or other hard-surface approved by the Design Review Board. Community recreational amenities and model homes constructed by the Declarant or Builders with written approval from the Declarant are exempt from this provision.

Air conditioning screen. Shrubbery or other landscape or hardscape material approved by the Design Review Board shall screen air conditioner units and all exterior utility devices.

Somers Ridge Series

Orientation. The Design Review Board may require Lots to conform to an orientation plan determined and provided by the Design Review Board. Exceptions to the orientation plan may be granted in the sole discretion of the Design Review Board.

Building size and set back requirements. The minimum square footage of the Lot shall be no less than 1000 square feet exclusive of basements, open porches, and garages. Front yard and side yard set backs must conform to City ordinance.

Foundation. The foundation shall not be exposed.

Material. To be determined by the Design Review Board.

Height. The maximum height for a structure must not exceed City ordinance standards and must receive prior approval from the Design Review Board.

Roofs. All roofs shall be completed using shingles with a minimum weight of 240 pounds per square and shall be colored weatherwood (gray in color) or the equivalent. The roofs must have a minimum pitch slope of 5 to 12 on all surfaces. No aluminum, wood shake, or flat surface roofs shall be approved. All roofing material shall have a 25-year minimum warranty. Any deviation from the above must receive Design Review Board approval prior to installation.

Roof Accessories and Equipment. Design Review Board approval is required for rooftop equipment and accessories, unless specifically excepted in this paragraph. All rooftop equipment must match roofing colors or be of a color that complements the house and must be placed as inconspicuously as possible. Exposed flashing, gutters and downspouts must be painted to match the fascia and siding of the structure unless otherwise approved by the Design Review Board. No exposed attachment straps will be allowed. Design Review Board approval is not required for skylights having measurements of 3' x 5' or less. Skylights should be placed in locations so as not to detract from the building elevations. Any installed solar energy equipment shall have the appearance of a skylight, shall have a finished trim material or curb, and shall not be visible from the street or Common Area.

Driveways. Asphalt drives and parking areas are not permitted. Driveways and parking areas must be concrete or other hard-surface approved by the Design Review Board. Community recreational amenities and model homes constructed by the Declarant or Builders with written approval from the Declarant are exempt from this provision.

Somers Village Series

Orientation. The Design Review Board may require Lots to conform to an orientation plan determined and provided by the Design Review Board. Exceptions to the orientation plan may be granted in the sole discretion of the Design Review Board.

Building size and set back requirements. The minimum square footage of the Lot shall be no less than 1200 square feet exclusive of basements, open porches, and garages. Front yard and side yard set backs must conform to City ordinance.

Foundation. The foundation shall not be exposed.

Material. To be determined by the Design Review Board.

Height. The maximum height for a structure must not exceed City ordinance standards and must receive prior approval from the Design Review Board.

Roofs. All roofs shall be completed using shingles with a minimum weight of 240 pounds per square and shall be colored weatherwood (gray in color) or the equivalent. The roofs must have a minimum pitch slope of 5 to 12 on all surfaces. No aluminum, wood shake, or flat surface roofs shall be approved. All roofing material shall have a 25-year minimum warranty. Any deviation from the above must receive Design Review Board approval prior to installation.

Roof Accessories and Equipment. Design Review Board approval is required for rooftop equipment and accessories, unless specifically excepted in this paragraph. All rooftop equipment must match roofing colors or be of a color that complements the house and must be placed as inconspicuously as possible. Exposed flashing, gutters and downspouts must be painted to match the fascia and siding of the structure unless otherwise approved by the Design Review Board. No exposed attachment straps will be allowed. Design Review Board approval is not required for skylights having measurements of 3' x 5' or less. Skylights should be placed in locations so as not to detract from the building elevations. Any installed solar energy equipment shall have the appearance of a skylight, shall have a finished trim material or curb, and shall not be visible from the street or Common Area.

Driveways. Asphalt drives and parking areas are not permitted. Driveways and parking areas must be concrete or other hard-surface approved by the Design Review Board. Community recreational amenities and model homes constructed by the Declarant or Builders with written approval from the Declarant are exempt from this provision.

Somers Villas Series

Orientation. The Design Review Board may require Lots to conform to an orientation plan determined and provided by the Design Review Board. Exceptions to the orientation plan may be granted in the sole discretion of the Design Review Board.

Building size and set back requirements. The minimum square footage of the Lot shall be no less than 1000 square feet exclusive of basements, open porches, and garages. Front yard and side yard set backs must conform to City ordinance. No structure shall be located on any Lot nearer than twenty-five feet to the front lot line, or further than thirty-five feet from the front lot line, or nearer to the rear lot line than permitted by city ordinances. No structure shall be located nearer than five feet to a side lot line. In no event shall the distance between structures be less than ten feet.

Foundation. The foundation shall not be exposed.

Material. The principle exterior of any structure shall be vinyl siding or brick. Any deviation from this restriction must be approved by the Design Review Board.

Height. The maximum height for a structure must not exceed City ordinance standards and must receive prior approval from the Design Review Board. In any event, the Lot shall not exceed 2 ½ stories in height.

Roofs. All roofs shall be completed using shingles with a minimum weight of 185 pounds per square and shall be "weatherwood" (gray in color) or the equivalent. The roofs must have a minimum pitch slope of 4 to 12. All other roofs must be approved by the Design Review Board.

Roof Accessories and Equipment. Design Review Board approval is required for rooftop equipment and accessories, unless specifically excepted in this paragraph. All rooftop equipment must match roofing colors or be of a color that complements the house and must be placed as inconspicuously as possible. Exposed flashing, gutters and downspouts must be painted to match the fascia and siding of the structure unless otherwise approved by the Design Review Board. No exposed attachment straps will be allowed. Design Review Board approval is not required for skylights having measurements of 3' x 5' or less. Skylights should be placed in locations so as not to detract from the building elevations. Any installed solar energy equipment shall have the appearance of a skylight, shall have a finished trim material or curb, and shall not be visible from the street or Common Area.

Driveways. Asphalt drives and parking areas are not permitted. Driveways and parking areas must be concrete or other hard-surface approved by the Design Review Board. Community recreational amenities and model homes constructed by the Declarant or Builders with written approval from the Declarant are exempt from this provision.

General Design Standards

The general design standards are listed below in alphabetical order according to natural headings. The following list of design standards is presented for your convenience and should not be taken to be an exhaustive or exclusive list of items subject to Design Review Board review. If you have any questions about a particular design standard or applicability to your proposed design, please contact the Design Review Board. Unless otherwise indicated within the specific design standard, each design standard applies to every Lot regardless of Series. None of

the following design standards should be read so as to negate making an application or the requirement of an Owner to receive Design Review Board approval prior to undertaking new construction or a modification.

- 4.1. **Address Numbers.** Approval is not required if numbers are not larger than six (6) inches in height, whether such numbers are affixed on the dwelling or mailbox, or painted on the curb.
- 4.2. **Air Conditioners and Fans.** Window unit air conditioners and fans are permitted so long as they are not visible from any street, any other Lot, or the Common Areas. **Somers Park Series:** Central HVAC condenser units must be screened from view so as not to be visible from any street, any other Lot, or the Common Areas.
- 4.3. **Awnings.** Cloth awnings must receive approval from the Design Review Board prior to installation.
- 4.4. **Birdfeeders.** Seeded or suet birdfeeders are only allowed in private backyards below the top of the fence line. Because there are no seeds in hummingbird feeders, these are allowed on private property without a height limit.
- 4.5. **Chimneys.** Chimneys shall not be installed without prior Design Review Board approval. **Somers Park Series:** Chimneys may be permitted provided such are constructed of masonry and receive Design Review Board approval prior to installation.
- 4.6. **Clotheslines.** Clotheslines are prohibited.
- 4.7. **Decks.** Decks may be constructed in the back yard of a Lot with prior Design Review Board approval. Decks must be constructed of wood or other materials similar to the materials used on the residence, must be painted or stained substantially similar to the residence. The Design Review Board may require the underside of the deck to be screened.
- 4.8. **Dog Houses.** Any dog house shall be located in the back yard of a Lot. Any dog house shall not be larger than four feet (4') wide by four feet (4') long, and three feet (3') tall at the peak of the roof. Color of the dog house must match the trim on the residence, and shall be shingled substantially similar to that of the residence. Any dog house shall not be visible from any street, any Lot, or Common Areas.
- 4.9. **Dog Runs.** Dog runs are not permitted.
- 4.10. **Doors.** Door colors and materials shall remain as originally installed, unless otherwise given prior Design Review Board approval.
- 4.11. **Drainage.** All drainage shall conform to City ordinance and the Somers Pointe development drainage plan.
- 4.12. **Driveways and Sidewalks.** The Declarant and Builders have installed standard concrete driveways and sidewalks. Any modification to these must receive prior Design Review Board approval and must meet City ordinance. No driveway or sidewalk visible from any street, any Lot, or the Common Areas shall be painted, stained, or otherwise colored or decorated.
- 4.13. **Fences.** *See Series-Specific Design Standards for your particular Series.*
- 4.14. **Firewood Storage.** Design Review Board approval is not required provided such storage occurs in the backyard of a Lot, is not visible from any Lot in the vicinity, and does not constitute a nuisance or hazard or breach of the Governing Documents.
- 4.15. **Flags and Flagpoles; Decorations.** Flag poles are permitted provided they do not exceed twenty feet (20') in height and receive prior Design Review Board approval. Any flags of a federal or state nature are allowed. Decorative flags are not discouraged, but will be disallowed if, in the sole discretion of the Board, the decorative flag has a negative affect on the aesthetic

quality of the community. Flags that are obscene, abusive, or that communicate messages repugnant to a reasonable person are disallowed. All holiday and seasonal decorations shall be removed within a reasonable time after the end of such holiday or season.

4.16. **Garages and Garage Doors.** Modifications to garages and garage doors must receive prior Design Review Board approval. **Somers Park Series:** Each Lot shall have at least a two (2) car garage. A Lot may have up to a 5 car garage provided the Lot will accommodate the same and the Design Review Board gives prior approval. Detached garages are permitted with prior Design Review Board approval. Design Review Board approval will encourage swing-in or side-entry garages on Lots that accommodate such construction. For garages of three (3) or more vehicles, Design Review Board approval will encourage only one double door or two (2) single doors to face the street.

4.17. **Gardens. Flower.** No Design Review Board approval required. **Vegetable.** Vegetable gardens are not permitted on Lots adjoining Common Areas. Design Review Board approval not required if space has been previously approved under a landscape plan or area is fully contained within a fenced backyard of a Lot. Provided further that no vegetables shall exceed the height of any fence on the Lot, and must be wholly contained within the back yard of the Lot.

4.18. **Gazebos.** Gazebos, pool houses, and similar personal recreational structures must receive prior Design Review Board approval.

4.19. **Irrigation Systems.** Must receive prior Design Review Board approval and shall not interfere with the development drainage plan, any Lot, or Common Areas.

4.20. **Landscaping.** See, Section 5 below.

4.21. **Lights and Lighting.** All exterior lighting shall receive prior Design Review Board approval.

4.22. **Mailboxes.** Mailboxes and similar structures shall receive prior Design Review Board approval. Each mailbox shall be centered on the Lot, shall be located off the curb running parallel with the street, and shall be constructed of brick material matching that used in the dwelling on the Lot. Each mailbox shall have an address plaque made of cast concrete or stone.

4.23. **Motion Detector & Security Lighting.** Motion detectors and security lights are permitted with prior Design Review Board approval. Under no circumstance shall security lighting shall shine on any adjoining Lot.

4.24. **Outbuildings.** All outbuildings must receive Design Review Board approval prior to installation. No outbuildings shall be permitted on any Lot adjoining a Common Area where such outbuilding would be visible from the Common Area. Any structure not the single residence constructed on a Lot shall receive prior Design Review Board approval. Metal outbuildings are permitted provided they are less than 6 feet tall at the peak of the outbuilding roof and provided no part of the outbuilding is visible from any street, any Lot, or the Common Areas. Outbuildings taller than six foot (6') at the peak of its roof are permitted provided such outbuilding is of the same style, material, and size as that depicted in Outbuilding Design Review Guidelines *attached hereto*. All outbuilding roofs must be shingled with the same shingles as installed on the Lot residence and the color of the outbuilding must match the trim color of the Lot residence. All outbuildings shall be located within any City set back ordinance as well as any set back provided by any Governing Document. Each outbuilding shall be properly permitted as required by City ordinance.

4.25. **Outdoor Furniture.** Except with prior Design Review Board approval, all outdoor furniture shall be contained wholly within the back yard of a Lot.

4.26. **Painting.** Prior Design Review Board approval is required for all painting, including but not limited to structures and garages, of a color other than originally installed by the Declarant or Builder.

4.27. **Patios, Patio Covers, Porches, Arbors.** All patios, porches, and the like must receive prior Design Review Board approval.

4.28. **Play and Sports Equipment.** Play and sports items and equipment are not permitted on any Lot adjoining Common Area where such items and equipment would be visible from the Common Area. All play and sports items and equipment must be wholly contained in the backyard to a Lot and may be no higher than six feet (6') tall. Basketball backboards and hoops may not be affixed to any portion of the Lot. Portable basketball backboards and hoops may be used in the front yard of a Lot during actual play, but shall be stored out of sight otherwise.

4.29. **Pools.** Small, temporary children's-style pools are permitted provided such pools are contained in the backyard of the Lot, are not visible from any Lot in the vicinity, and are emptied when not in use. Above-ground pools are not permitted on any Lot adjacent to the Common Area. In-ground pools are permitted with prior Design Review Board approval.

4.30. **Retaining Walls.** Although not expected to be necessary in Somers Pointe, retaining walls that can be viewed from a street or common area or are in the front yard of any house must be constructed of an architectural block. Style and specifications of said block shall be published by the Design Review Board pursuant to its rulemaking authority.

4.31. **Roofs.** See, specific Series design guidelines above.

4.32. **Satellite Dishes and Antennas.** No exterior radio antenna, television antenna, or other antenna, satellite dish, or audio or visual reception device of any type shall be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that any such devices may be erected or installed by the Declarant during its sales or construction upon the Lots; and provided further, however, that these requirements shall not apply to those antenna which are specifically covered by regulations promulgated under the Telecommunications Act of 1996, as amended from time to time. As to antenna which are specifically covered by the Telecommunications Act of 1996, as amended, the Design Review Board shall be empowered to adopt rules and regulations governing the types of antenna that are permissible hereunder and, to the extent permitted by the Telecommunications Act of 1996, as amended, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

As provided in the Telecommunications Act of 1996, "Antenna" is defined as follows: (1) an antenna that is designed to receive direct broadcast satellite service including direct-to-home satellite services and is one meter or less in diameter or diagonal measurement; (2) an antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services and is one meter or less in diameter or diagonal measurement; or (3) an antenna that is designed to receive television broadcast signals.

All Antennas are subject to the provisions set forth below:

1. Any Antenna an Owner places on their property must be registered with the Design Review Board within ten (10) days of installation. Owners shall submit a registration drawing detailing how it complies with the guidelines set forth herein.

2. Installation shall be by a qualified person knowledgeable about the proper installation of Antennas.

3. All Antennas must be installed in accordance with the manufacturers' guidelines to insure safe installation, and must also be installed in compliance with all federal, state and local statutes and regulations regarding safety. In addition, a building permit shall be obtained, if required by local ordinance.

4. No Antenna can be over thirty-nine inches (39") in diameter or diagonal measurement, at its largest dimension. Any device larger than one meter (39 inches) in diameter is **strictly prohibited**.

5. All Antennas must be properly grounded and must be placed a safe distance from any power lines.

6. All Antennas must be located in a side or rear yard location, not visible from any street(s) or any neighboring properties, provided such location does not preclude reception of an acceptable quality signal.

7. All Antennas shall be ground mounted or shall not be installed higher than is absolutely necessary for reception of an acceptable quality signal.

8. All Antennas must be blended with the background upon which they are placed by painting the Antenna the same color as the house or otherwise screening the Antenna from view from any street(s) or adjacent properties with appropriate landscaping or other materials of a reasonable cost.

9. All installations shall be completed so that they do not damage the common areas of the Association or the lot of any other resident, or void any warranties of the Association or other owners, or in any way impair the integrity of buildings on common areas or lots.

10. Owners are responsible for all costs associated with the antenna, including but not limited to costs to:

- Place (or replace), repair, maintain, and move or remove antennas;
- Repair damages to the common property, other lots, and any other property damaged by antenna installation, maintenance or use;
- Reimburse residents or the Association for damages caused by antenna installation, maintenance, or use.

11. Wiring or cabling shall be installed so as to be minimally visible and blend into the material to which it is attached.

12. No Antenna shall be placed in a location where it blocks fire exits, walkways, ingress or egress from an area, fire lanes, fire hoses, fire extinguishers, safety equipment, electrical panels, or other items or areas necessary for the safe operation of the Association or individual Lots.

13. No Antenna shall be attached to fencing shared between Lots or common areas.

14. No Antenna may obstruct a driver's view of an intersection or a street.

15. To the extent that interpretation of these provisions is necessary, such interpretation will be undertaken by the Design Review Board in full compliance with all federal, state and local statutes and regulations, as may be supplemented or amended from time to time.

16. If antennas are installed on property for which the Association has maintenance responsibility, owners retain responsibility for antenna maintenance. Owners must not install antennas in a manner that will increase maintenance costs for the Association or for other Owners. If such damage occurs, owners are responsible for these costs.

If an Antenna needs to be installed in any way that is not consistent with the above-mentioned provisions due to preclusion of an acceptable quality signal, then the Owner is asked to submit a request for location approval. The Association's approval will then be based on how well the device is screened from the view of both public and private areas. **Important Note: Any Antenna/Satellite Dish that is in any way mounted on your house may void applicable warranties.**

4.33. **Siding.** Unless otherwise provided in Series-Specific Design Standards, any siding must receive prior Design Review Board approval.

4.34. **Signs:** Subject to the restriction that no sign shall be located within any Common Area, and except as reserved by the Declarant, the following sign standards shall apply.

4.34.1. **Real Estate Signs:** Temporary, non-illuminated, real estate signs indicating the availability for sale of a specific Lot upon which this sign is erected or displayed are approved without application, provided the sign does not exceed five (5) square feet in total area, does not exceed four feet (4') in height, and the Lot is restricted to one (1) sign per street frontage. Such signs are to be removed immediately following sale closing or rental occupancy of the property. Such signs may not be placed on any fence. Open House signs shall conform to the above dimensions, are limited in number to six (6), shall be placed only upon the owner's Lot or within the public right-of-way for the duration of the open house, and shall not block or interfere with traffic visibility. All signs must also meet local sign codes.

4.34.2. **Garage Sale Signs:** A sign advertising the existence of a garage sale of personal property may indicate the date, time and location of the sale. Such signs may have a maximum area of three (3) square feet, and may be posted for the period of the garage sale only. Such signs may not block or interfere with traffic visibility, and shall be posted only on the owner's Lot or within the public right-of-way.

4.34.3. **Political Signs.** Signs depicting the name and office of a legitimate political candidate who has filed for a present political race are allowed, provided such signs do not exceed a maximum area of three square feet. Such signs shall be removed the day after elections pertaining to the candidate's race. All signs depicting political slogans and information other than the candidate's name and office shall receive prior Design Review Board approval.

4.34.4. **Other Signs.** All other signs, including but not limited to, posters, billboards, advertising devices, or displays of any kind, are not permissible for posting on any Lot without the prior written consent of the Design Review Board.

4.35. **Skateboard Ramps.** Not permitted.

4.36. **Skylights.** See, specific Series design standards.

4.37. **Solar Devices.** All solar devices must receive prior Design Review Board approval.

4.38. **Statues, Sculptures, Fountains, Ponds.** Placement of any statue, sculpture, fountain, pond, or similar artistic expression in the front yard of any Lot or the front and backyard of any Lot adjoining the Common Areas is highly discouraged by the Design Review Board and must receive prior Design Review Board approval. All other locations of artistic expressions visible from other Lots or requiring any excavation must receive prior Design Review Board approval.

- 4.39. **Storm/Security Doors.** Storm and security doors are allowed with prior Design Review Board approval.
- 4.40. **Temporary Structures.** Temporary structures suitable for a wedding, birthday party, and similar occasions are permitted in the backyard to any Lot provided such temporary structure is removed within twenty-four (24) hours of the conclusion of the occasion. This design standard shall not limit Association activities.
- 4.41. **Trash and Garbage Receptacles.** Trash and other receptacles shall be absent from view from any street, any Lot, and Common Areas on all days other than designated trash and/or recycling pick up days.
- 4.42. **Tree Houses.** Tree houses constructed in or on vegetation are not permitted.
- 4.43. **Underground Installations.** All underground installations must receive prior Design Review Board approval.
- 4.44. **Variety in Design.** Dwellings with the same floor plan and same elevation must have a minimum of Four (4) Lots between such Dwellings when built on the same side of a street. Such Dwellings shall not be constructed on corresponding corner Lots. A minimum of two (2) Dwellings must be built between dwellings with the same style and color of brick.
- 4.45. **Walls.** All walls of any nature, for example but not limitation retaining walls, landscaping walls, and decorative walls, must receive prior Design Review Board approval.
- 4.46. **Wells.** Wells of any kind are not permitted except as provided by Declarant for irrigation and water level maintenance of ponds.

5. Landscaping Standards

5.1. Overview.

The Design Review Board retains oversight of landscaping improvements to Lots to make assurance that the Somers Pointe community will continue to be an attractive and pleasant place to reside. The landscape plan will be required for review at the same time the initial site plan is reviewed. The landscaping work shall be completed within nine (9) months of start of vertical construction or within two (2) months of the issuance of the Certificate of Occupancy for the improvements.

5.2. Concepts.

Each Owner should familiarize themselves with these landscape guidelines prior to executing a plan. Each landscape plan should be prepared according to the following criteria:

1. Provide landscaping to enhance the beauty of the Lot and improvements while providing continuity between the Lot, improvements, and surrounding vegetation.
2. Minimize the visual intrusion of the built environment by mitigating areas disturbed during construction.

5.3. Objectives.

All Lots, after construction, require landscaping. The design of the landscaping will vary, depending on size, shape, topography, and location of the property and the design of the structure. It is the intent of the landscaping to accomplish the following objectives:

1. **Beautify.**

1.1. Soften vertical structure from the horizontal ground plane, with foundation plantings of sufficient density and size to break the line between ground plane and structure.

1.2. Soften the impact of corners and broad wall areas with vertical and spreading foliage.

1.3. To soften and reduce apparent height of house, foundation planting at the front should be layered from the ground plane using small plants towards the front and then transitioning up to larger plants near the foundation. A single row of uniformly spaced plants of equal size arranged in a single row along the foundation is not acceptable. Installing plant material of different sizes and textures in natural groupings is a preferred alternative.

2. **Screen.** Visually screen compressors, tanks, service yards, transformers, telephone pedestals, recreation equipment, parking, driveways, patios and other hard or unsightly areas.

3. **Restoration.** Restoration of a site due to construction.

4. **Drainage.** It is the responsibility of each owner to handle surface water on the Lot to minimize impact on adjoining property and insure that water is moved to the appropriate areas to interface properly with Somers Pointe's master drainage plan.

5. **Phasing.** This approach to landscaping is approvable; however, the initial phase must meet the first four (4) objectives above.

6. **Conservation.** Owners are also encouraged to plan for the conservation of water by planting native and drought resistant species.

7. **View.** Taller plantings and recreation equipment should not be placed in the neighbor's view line. Existing vegetation will be allowed to remain in the view line. The view line is defined by staffing at the left and right rear property corners and proceeding twenty (20) feet toward the front corners and twenty (20) feet toward the center across the rear property line. These two new points, near each corner, when connected form triangles that should remain free of obstructions for neighbor's view corridors.

5.4. Plans.

1. **Landscaping.** The landscaping plan must be professionally prepared on a site plan indicating topography, existing and proposed vegetation. The plan should be drawn at a scale of one-eighth (1/8th) inch equals one (1) foot. The plan should graphically illustrate location, lot number, adjoining lot border lines, nearest structure lines on adjoining Lots, sizes of plant material, lawn, mulched areas, and open areas. A schedule must be included on the planting plan indicating the following specifications for each plant: Common name, Plant height at time of planting (two [2] gallon minimum), Plant quantities, Identify grass and mulched areas. Each Lot shall contain a minimum of one hundred (100) square feet of landscaping in the front yard.

2. **Identify Trees.** Existing trees of three inch (3") diameter or greater at forty-eight inches (48") from the ground, must be identified as to exact location, size of trunk, genus name, and where possible, the species. No existing trees shall be cut, removed, transplanted or damaged without approval by Design Review Board.

3. **Features and Surface.** All existing site features such as roads, walks, structures on adjoining Lots, bike paths, walls, etc. are to be graphically noted on the Landscape Site Plan. All surfacing materials are to be noted (as to whether they are concrete, grass, planting beds, etc.). Texturing or other surface treatment of concrete paving is to be indicated and should include color presentation.

4. **Sod Requirement.** All lawn areas must be covered with sod, seed, or other material approved by the Design Review Board.
5. **Tree Requirement.** Trees and shrubs must be planted in accordance with the approved plan within the time frame outlined in Section 5.1. Unless otherwise existing naturally on the Lot, and such naturally occurring trees are approved as substitutes by the Design Review Board, each Lot shall have a minimum of Two (2) approved trees, measuring at least Three (3) inches in diameter or greater at 48" from the ground, located in front of the dwelling constructed on the Lot. If such Lot shall be a corner Lot, then such corner Lot shall be required to locate Three (3) such trees.
6. **Irrigation.** Should any Lot have any form of irrigation system installed to irrigate planting beds or grassed areas of the Lot, the spray from such irrigation system should be contained to the Lot. The Design Review Board may require relocation or redirection of spray if adjacent Lots, streets or other areas are affected. The Design Review Board is not responsible for the system's performance or function. The Design Review Board shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved irrigation systems.

Application for Design Review for Somers Pointe

Pursuant to the Governing Documents, any Owner desiring to make any modification to a Lot must make an application to the Design Review Board prior to commencement of work. By completing this Application and making the appropriate submittals, you successfully make your application for modifications as required by the Governing Documents. You may need additional approvals from local, state, or federal agencies. By executing and submitting this Application, the Owner(s) acknowledge that they have reviewed the Governing Documents and understand the standards applicable to modifications and the authority and discretion afforded the Design Review Board, all such provisions within the Governing Documents being incorporated herein by reference. If you need any additional space, please include supplement pages.

Name of Owner(s) _____

Property address: _____

Day phone _____ Evening phone _____ Series _____

1. Modification Area. Approval is requested for the following modifications as described below and on the submittal pages. The general type of modification requested is indicated below. If applicable, appropriate submittal pages are indicated and attached to this Application. _____

2. Submittal Pages. All applications shall include appropriate submittal pages showing such design features as required by the Governing Documents and Design Review Guidelines. Failure to include the submittal pages will result in a returned Application.

Commencement date: _____ Time for completion: _____

This is a Re-application: YES NO

Owner's Signature(s) _____

[DO NOT WRITE BELOW THIS LINE]

Date Application received _____ By _____

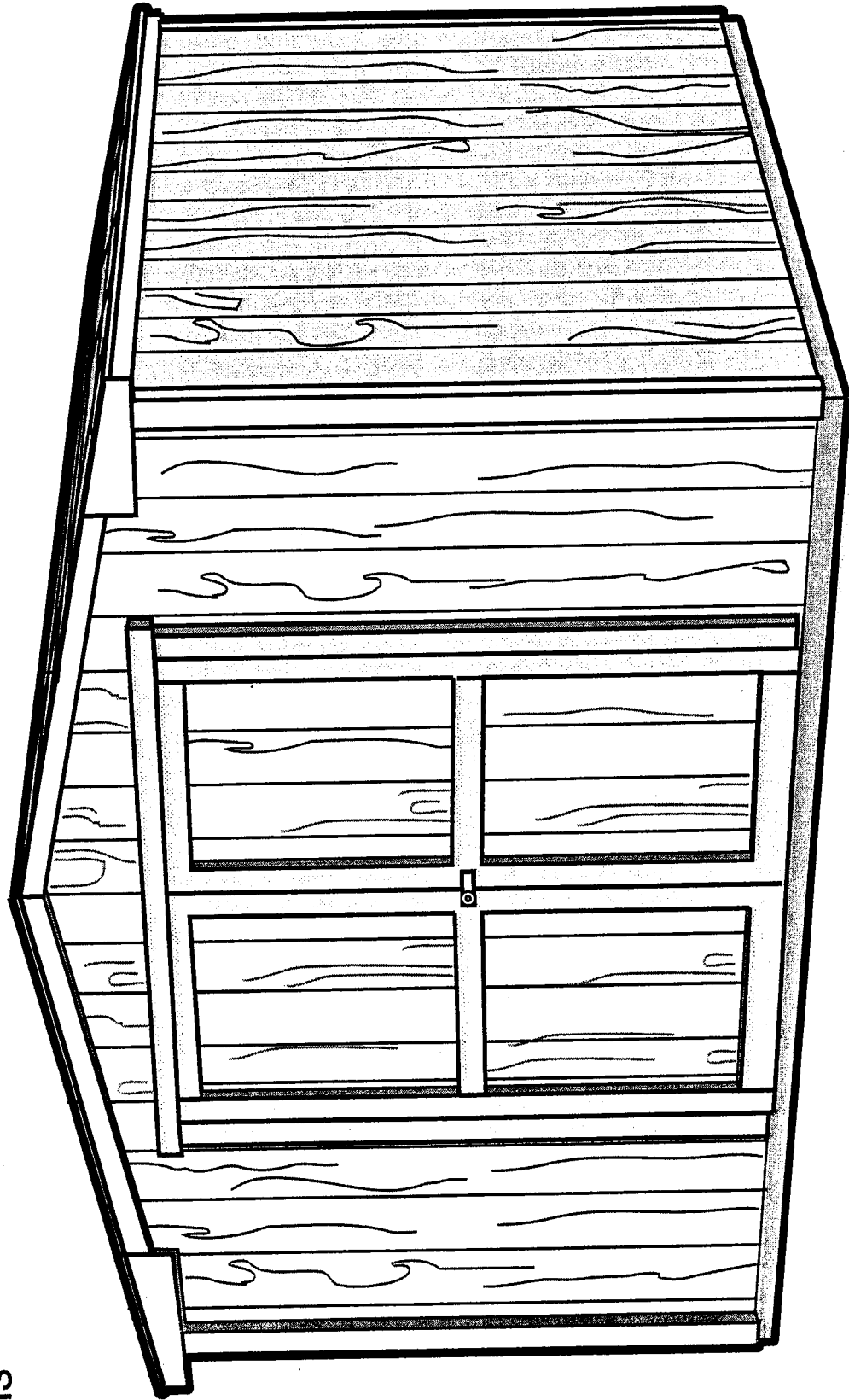
Action on Application: Approved Denied Other _____

Date

Authorized Design Review Board
Representative

10' Marco Series Gable Building

Engineering Building
Plans

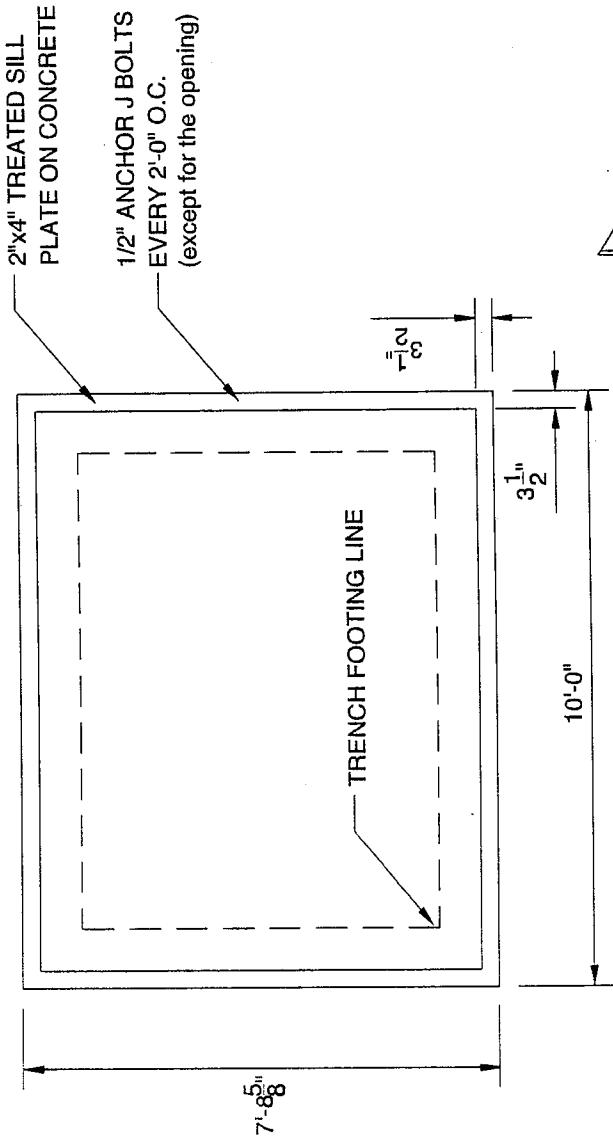


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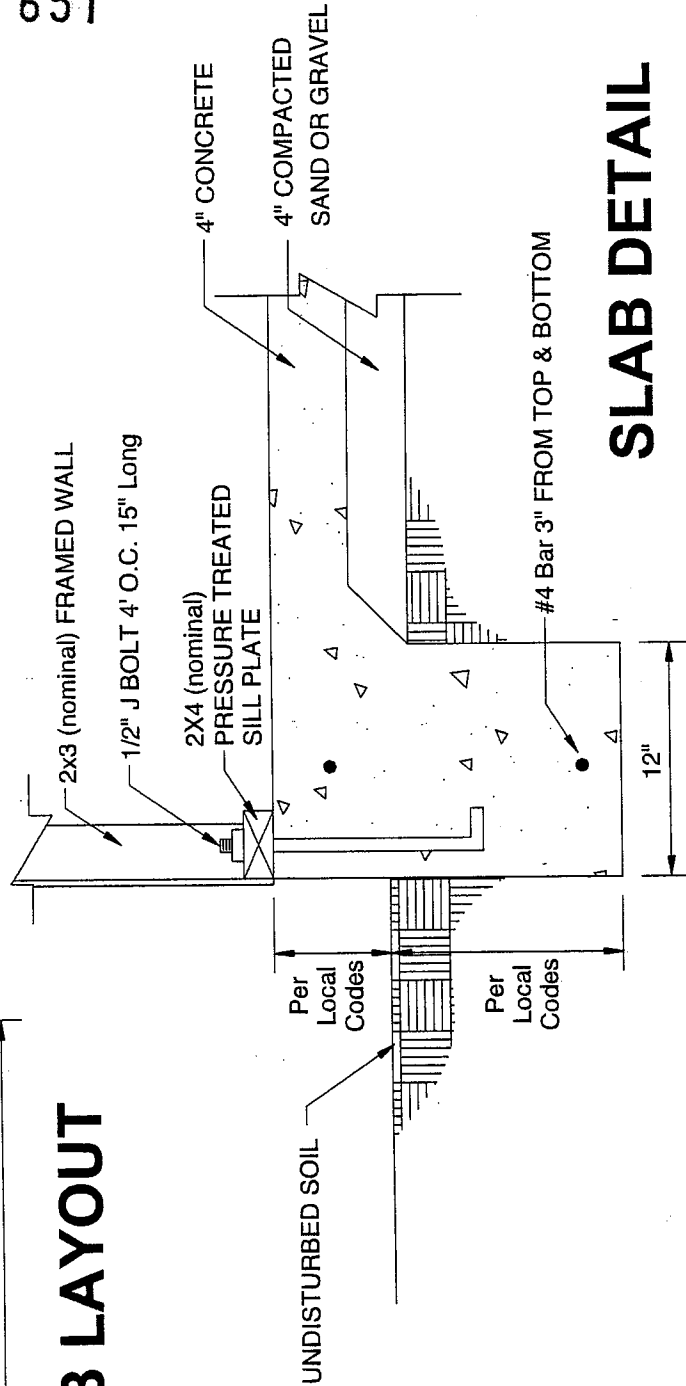
10-7-03

10'x12'
Slab size is 10' x 11' 8-5/8"

10'x16'
Slab size is 10' x 15' 8-5/8"



SLAB LAYOUT



SLAB DETAIL

WOOD FLOOR DETAIL

NOTE:

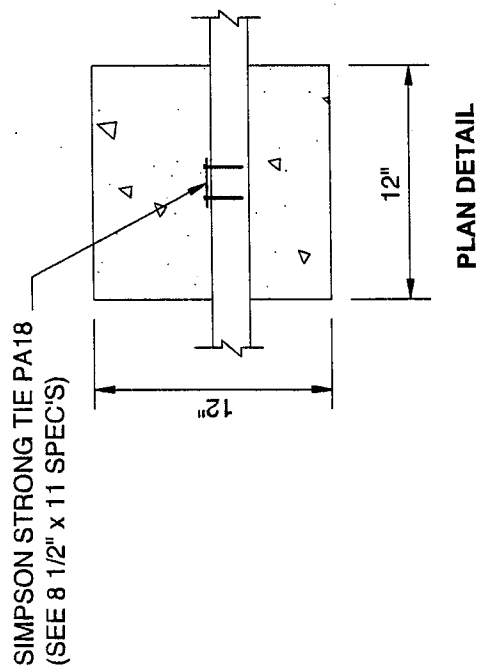
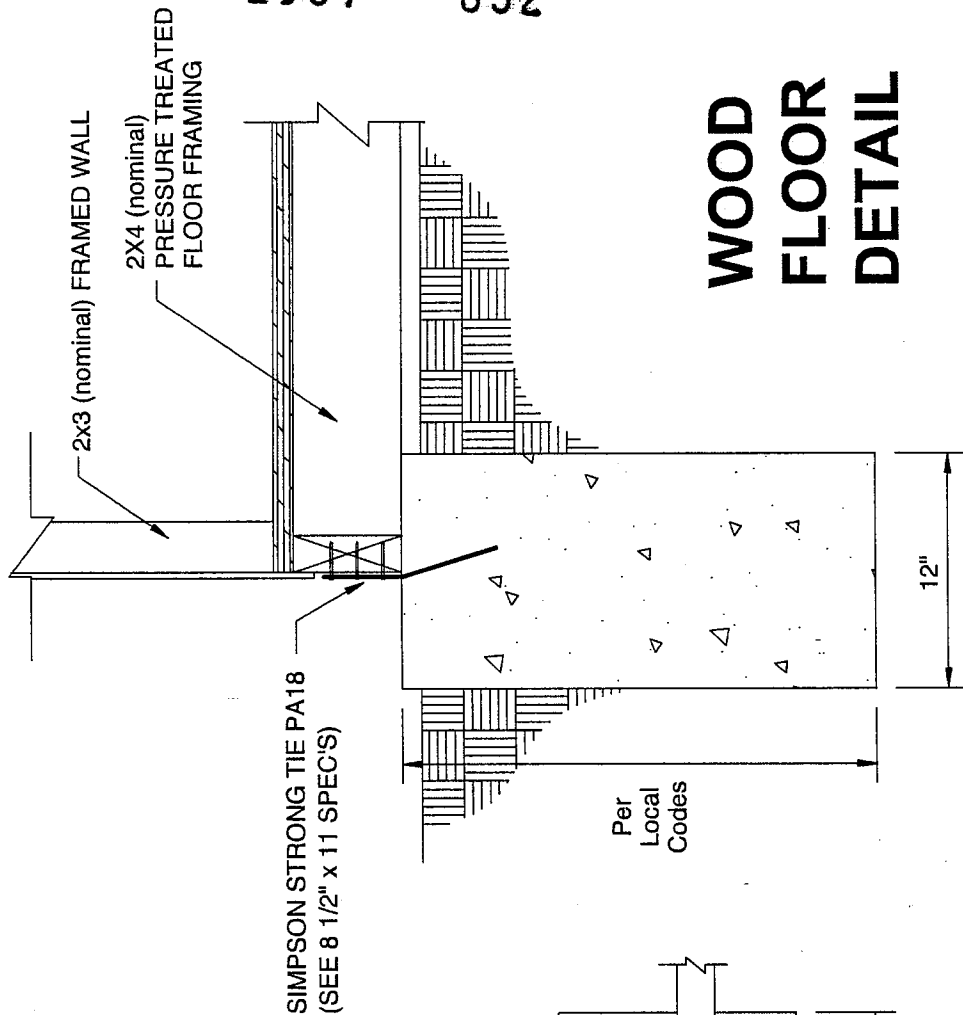
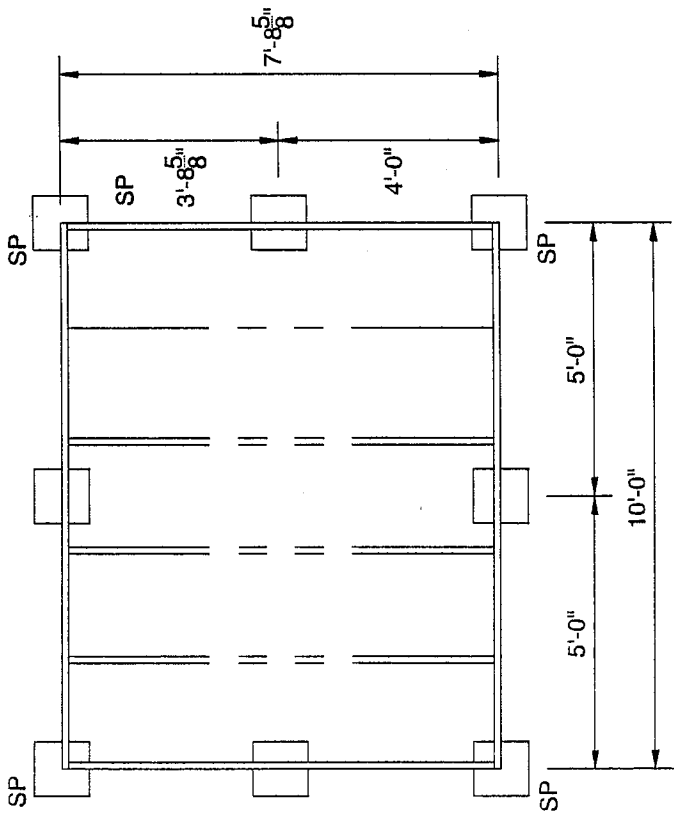
1.) ONLY THE PIERS INDICATED WITH SP ARE REQUIRED TO HAVE SIMPSON STRONG TIES

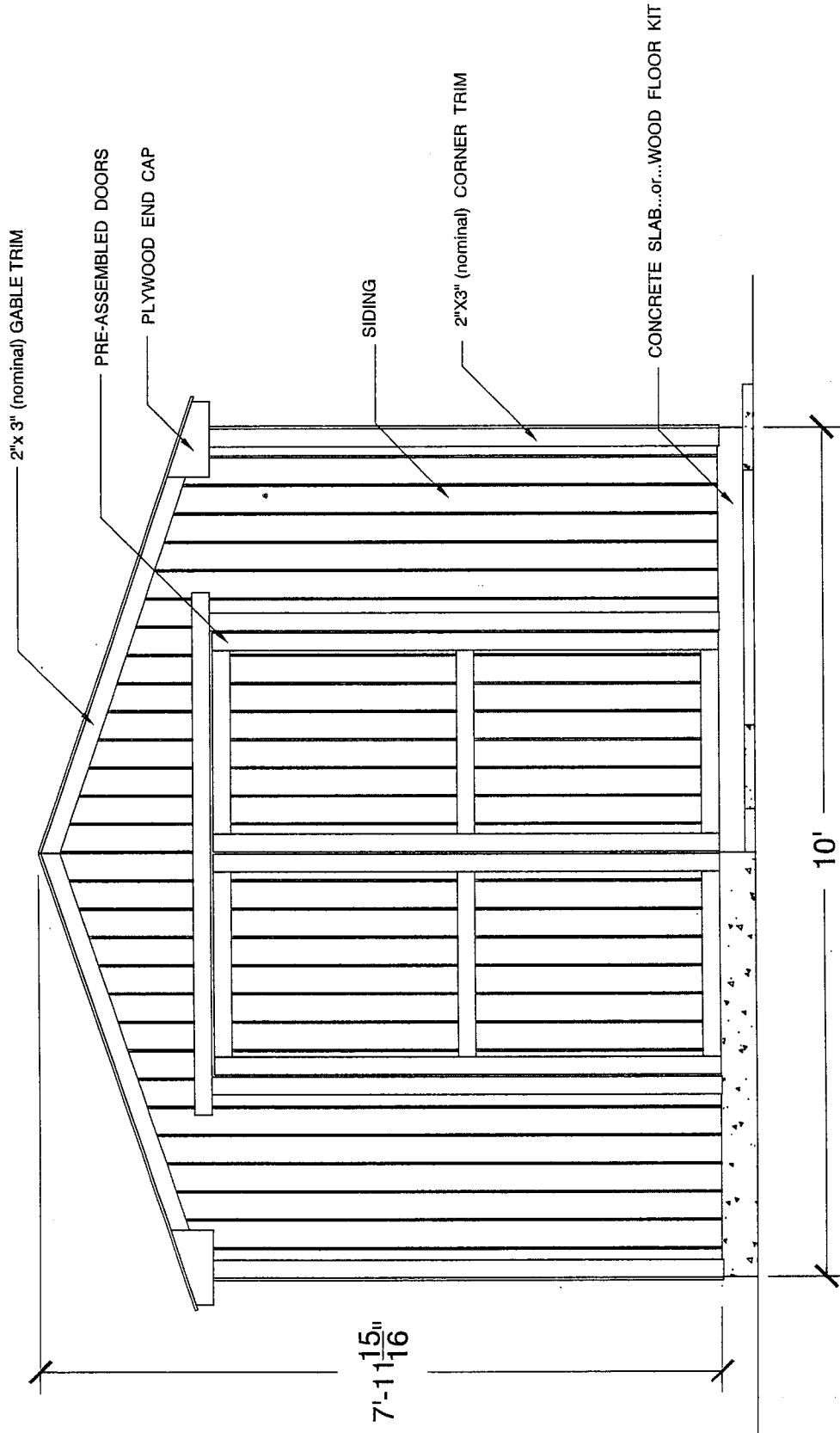
10'x12'

Wood Floor size is 10' x 11' 8-5/8"

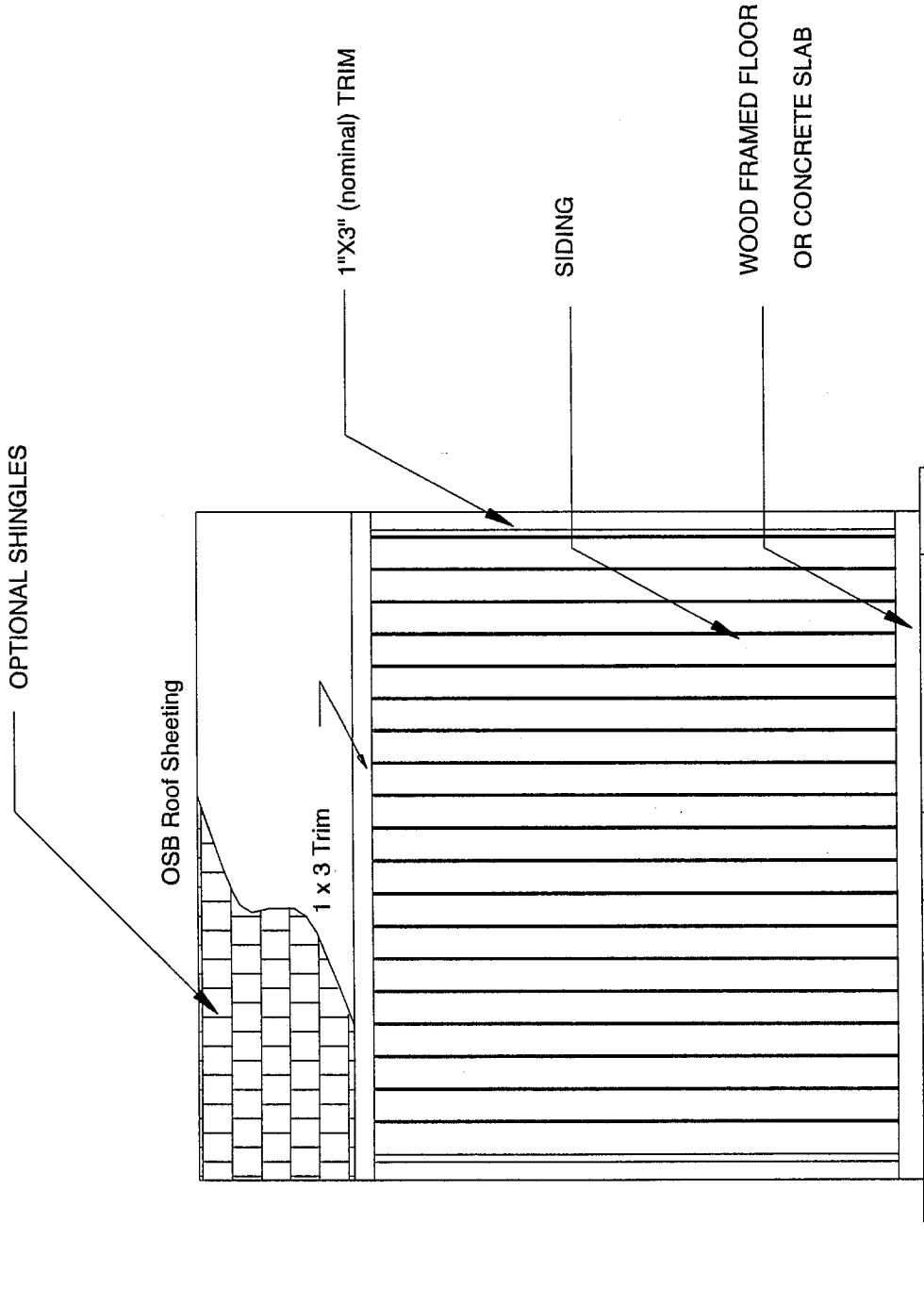
10'x16'

Wood Floor size is 10' x 15' 8-5/8"



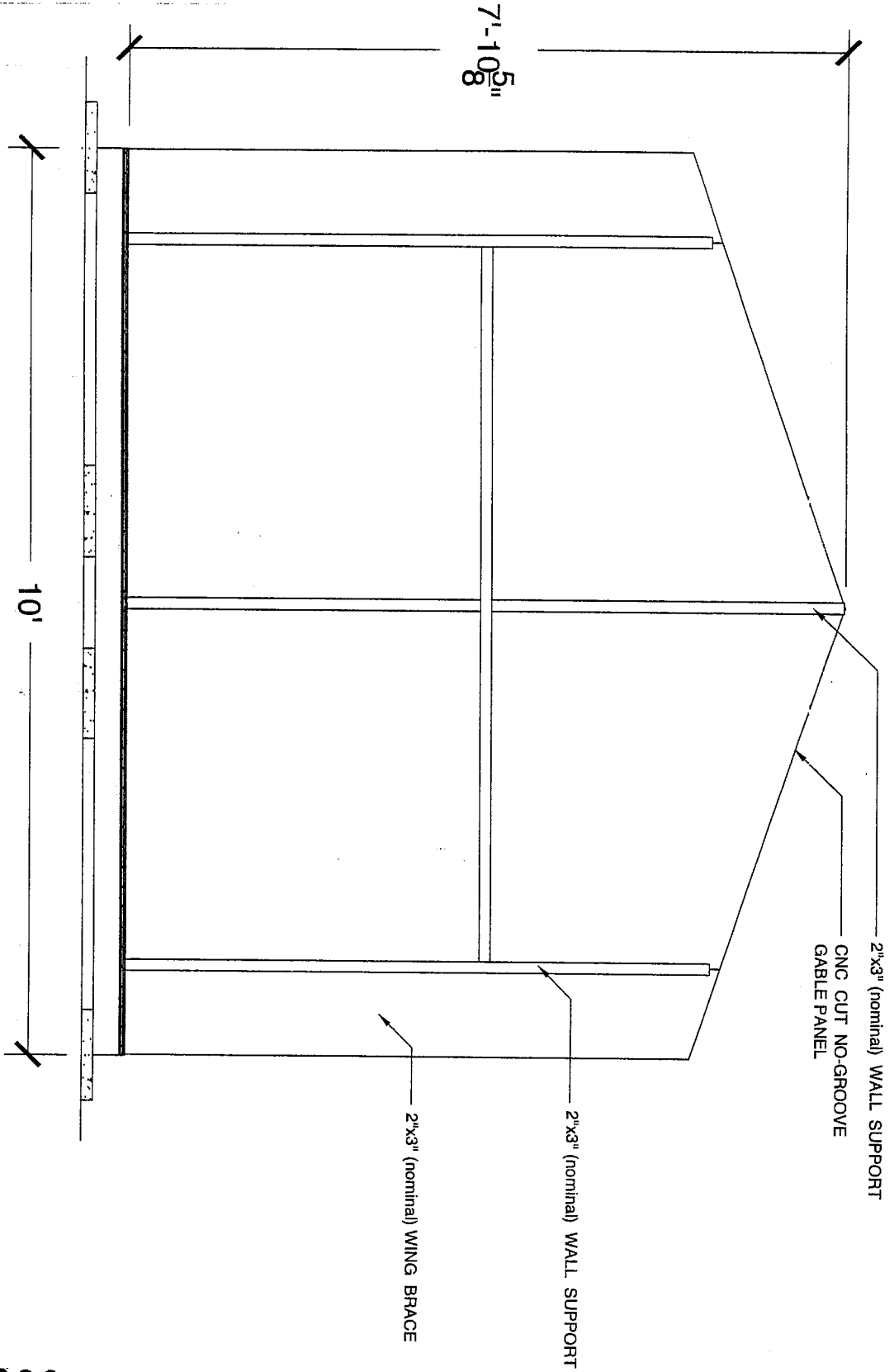


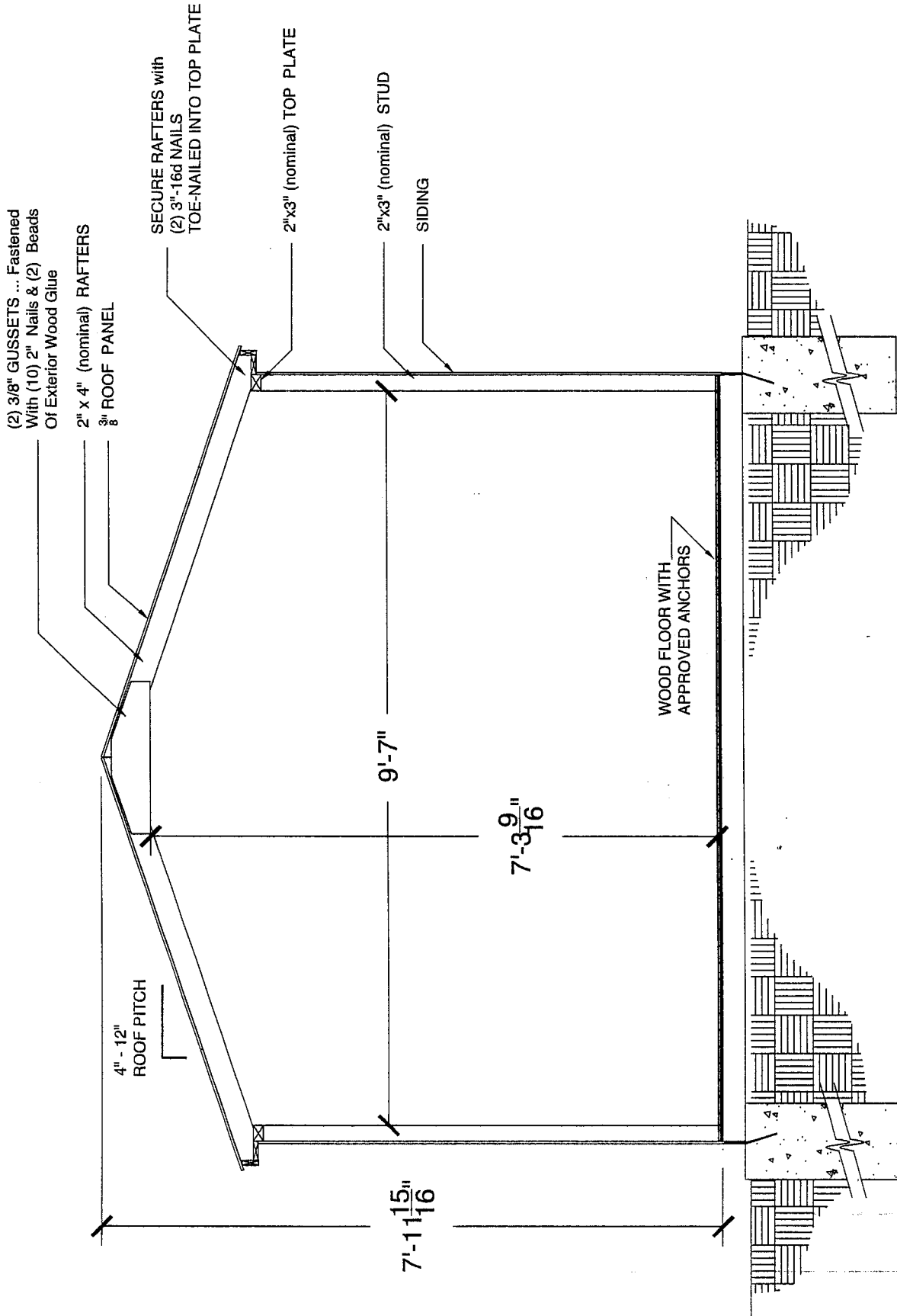
FRONT ELEVATION



LEFT ELEVATION

BACK WALL FRAMING





SECTION DETAIL

- NOTES: 1) The Roof System of this 10 ft. wide Gable style building has a live load capacity of 45 PSF. The equivalent ground snow load per ANCE 7-98 is 88 PSF which exceeds the 17.3 PSF pressure for a 110 mph wind per ASCE 7-98.
- 2) This plan supplements assembly instructions prepared by Handy Home Products.

STRUCTURAL ANALYSIS:

f b = 1200 PSC
 f v = 80 psi
 Sx 2"x3" = 1.56 in Area = 3.75 in
 Dead Load = 4 PSF (Roof)
 Max Rafter Moment = fb Sx/12=306 ft.lb.
 Max Rafter Shear = 80x3.75=300 lb.
 Max Stud Moment = 156 ft. lb.

WALL SYSTEM:

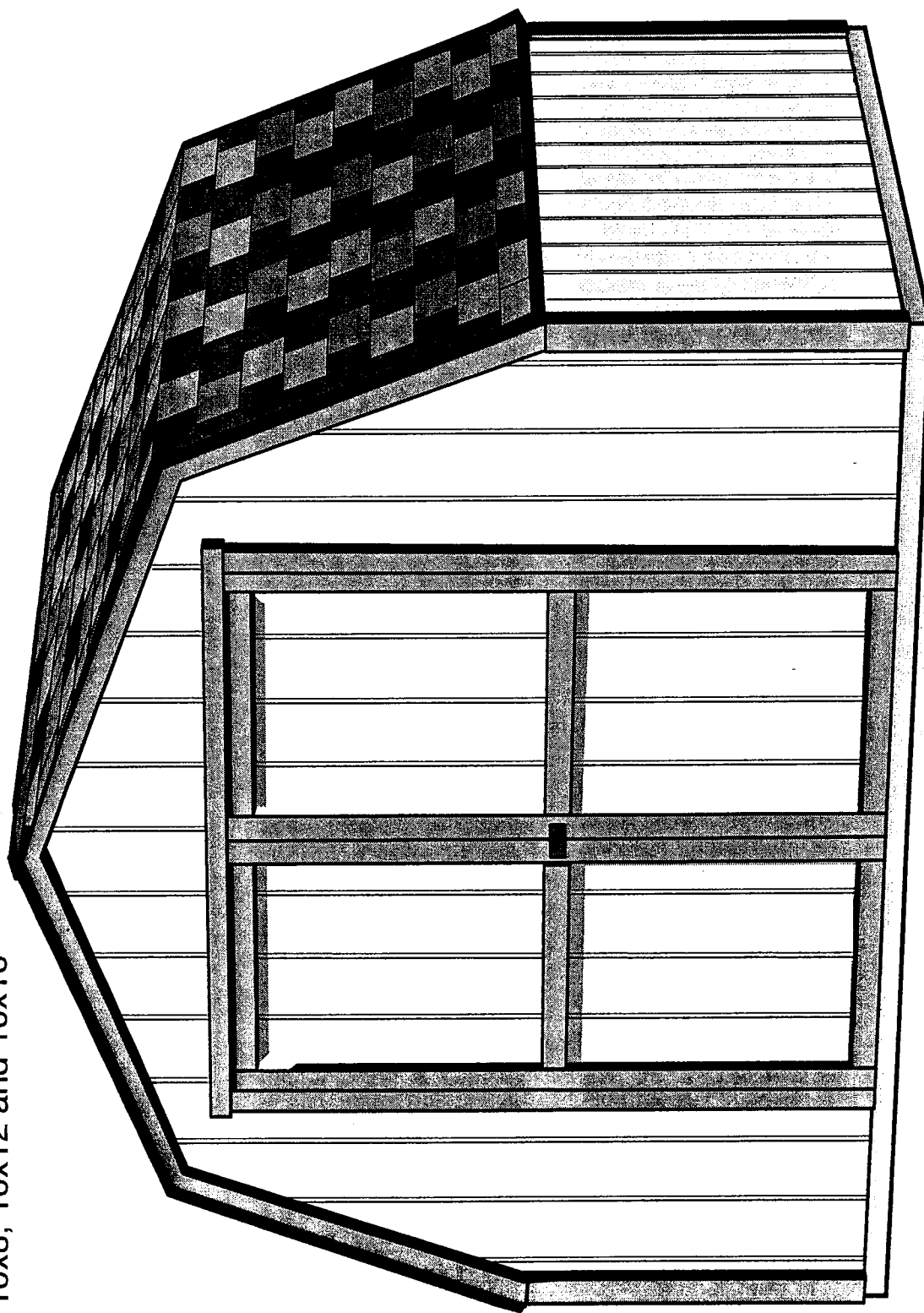
1) Studs 2x3@24"cc L=3.3ft. w=8M/L2=114PLF=57 PSF
 2) Wind Loading V = 110 mph EXP 1
 Kz=0.37 Gh=1.65 GCpl=-0.25
 I=0.95 Cp=0.8
 Velocity Pressure=8z=.00256Kz(IV) =10.3PSF
 Design Pressure=P=qfGhCp-(qhGCpl)=16.2PSF
 ok<57PSF

ROOF SYSTEM:

- 1) Rafters 2x4@2'cc w=8M/L2 = 76PLF=45 PSF-4
- 2) Rafter Shear w=2V/L = 117 PLF=92 PSF-4
- 3) Sheathing w=45PSF-4=45psf
- 4) Ground Snow Load: Ref ASCE 7-98
 - Ps=45PSF I=0.8
 - Cs=0.95 Ce=0.8
 - Ct=1.2 Pf=45/0.95=47.4PSF
 - Pg=PF/.7CaCtI=88 PSF Ground Snow Capacity

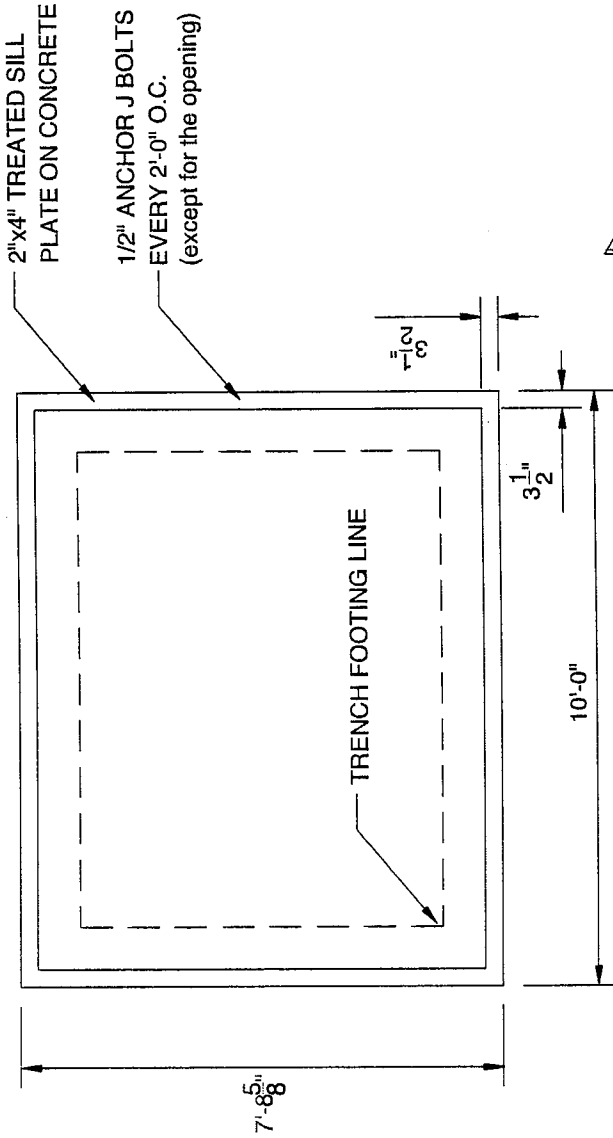
10' Marco Series Gambrel Building

Engineering Building
Plans for 10x8, 10x12 and 10x16

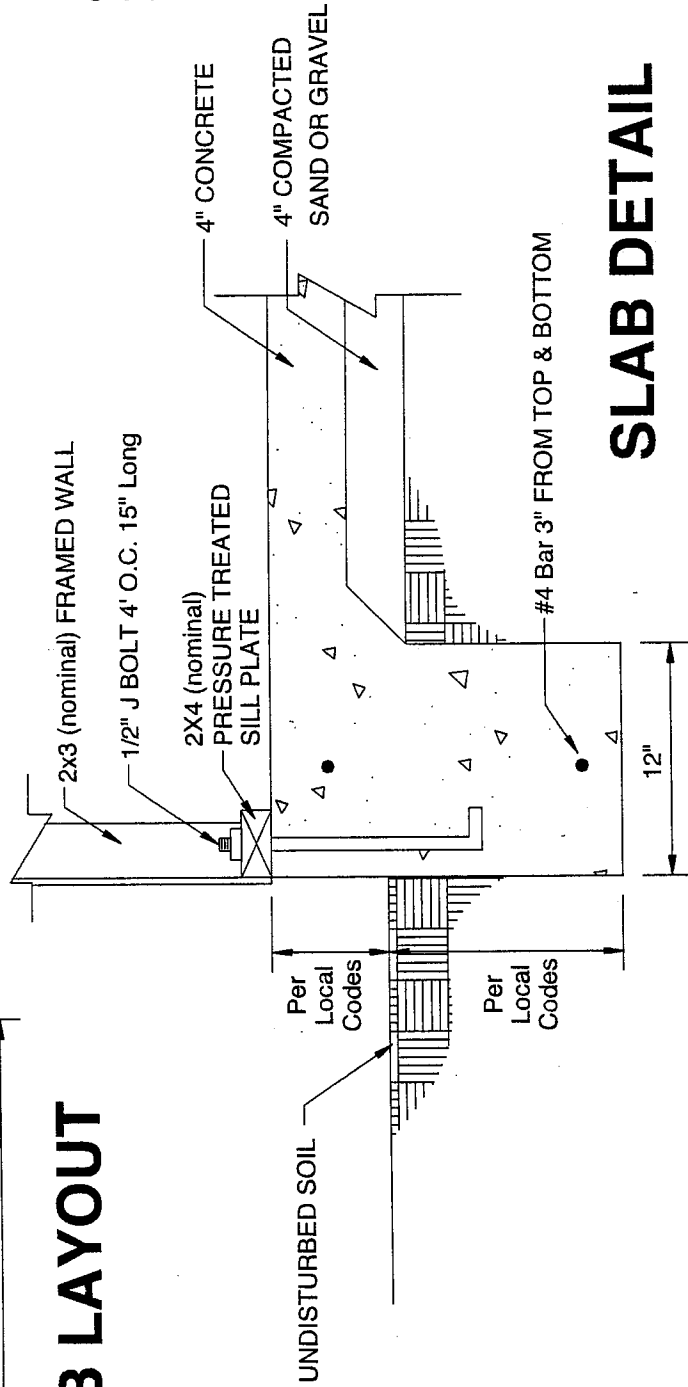


10'x12'
Slab size is 10' x 11' 8-5/8"

10'x16'
Slab size is 10' x 15' 8-5/8"



SLAB LAYOUT



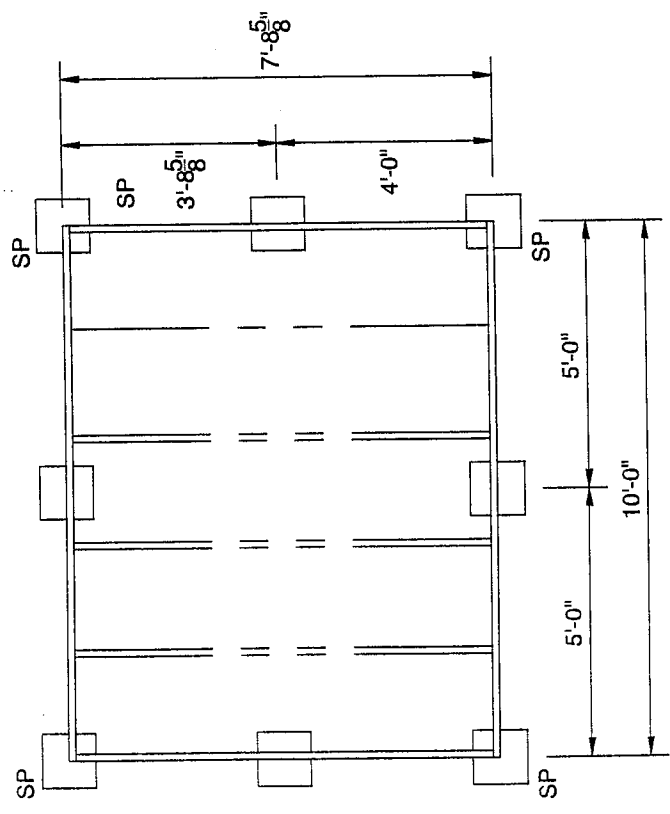
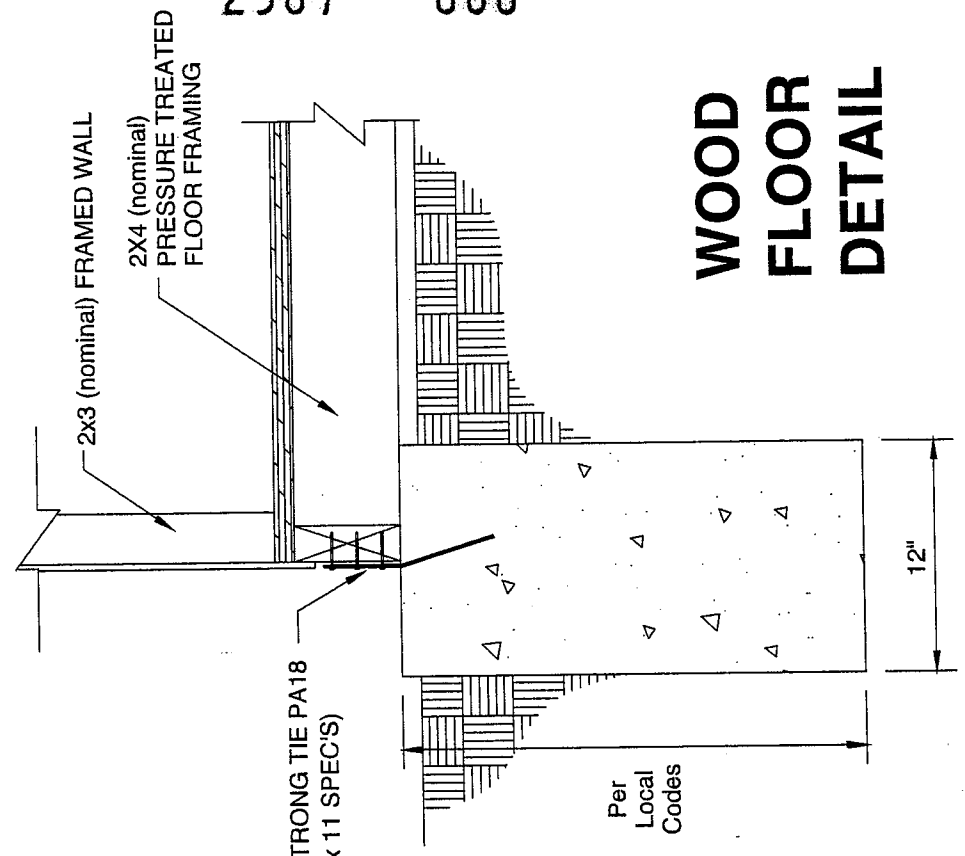
SLAB DETAIL

WOOD FLOOR DETAIL

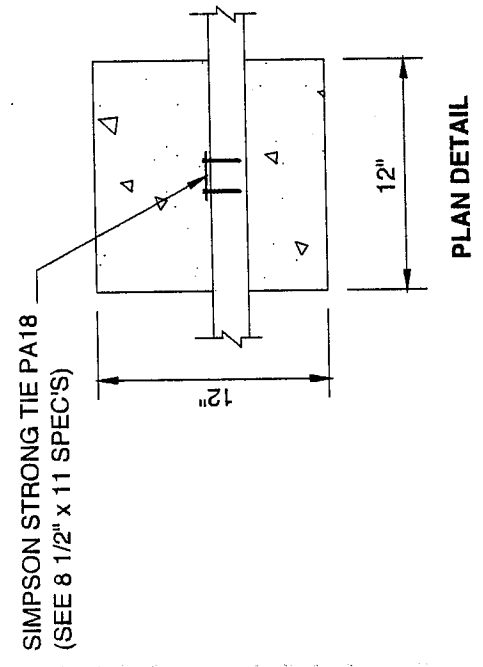
NOTE:
1.) ONLY THE PIERS INDICATED WITH SP ARE REQUIRED TO HAVE SIMPSON STRONG TIES

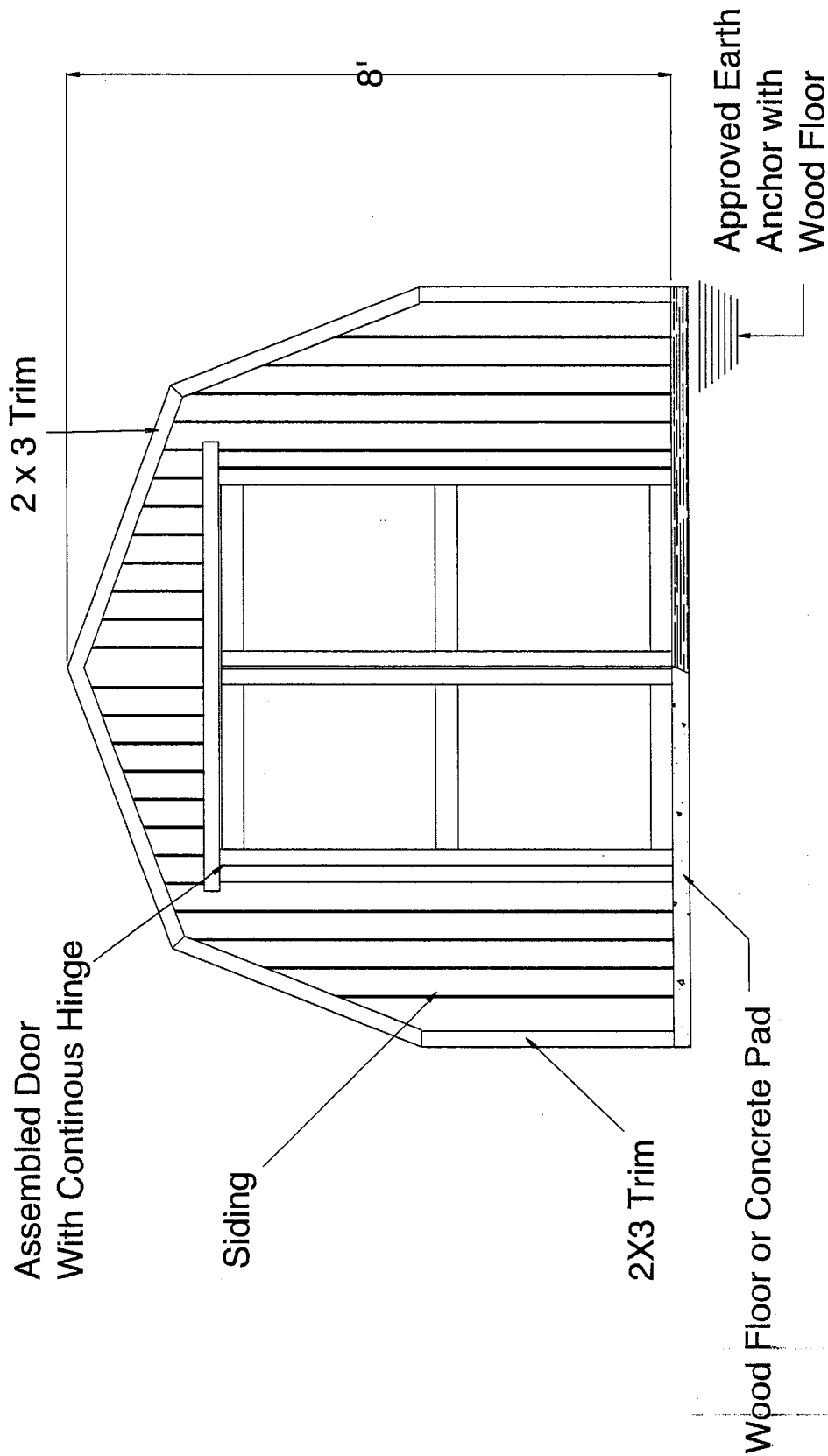
10'x12'
Wood Floor size is 10' x 11' 8-5/8"

10'x16'
Wood Floor size is 10' x 15' 8-5/8"

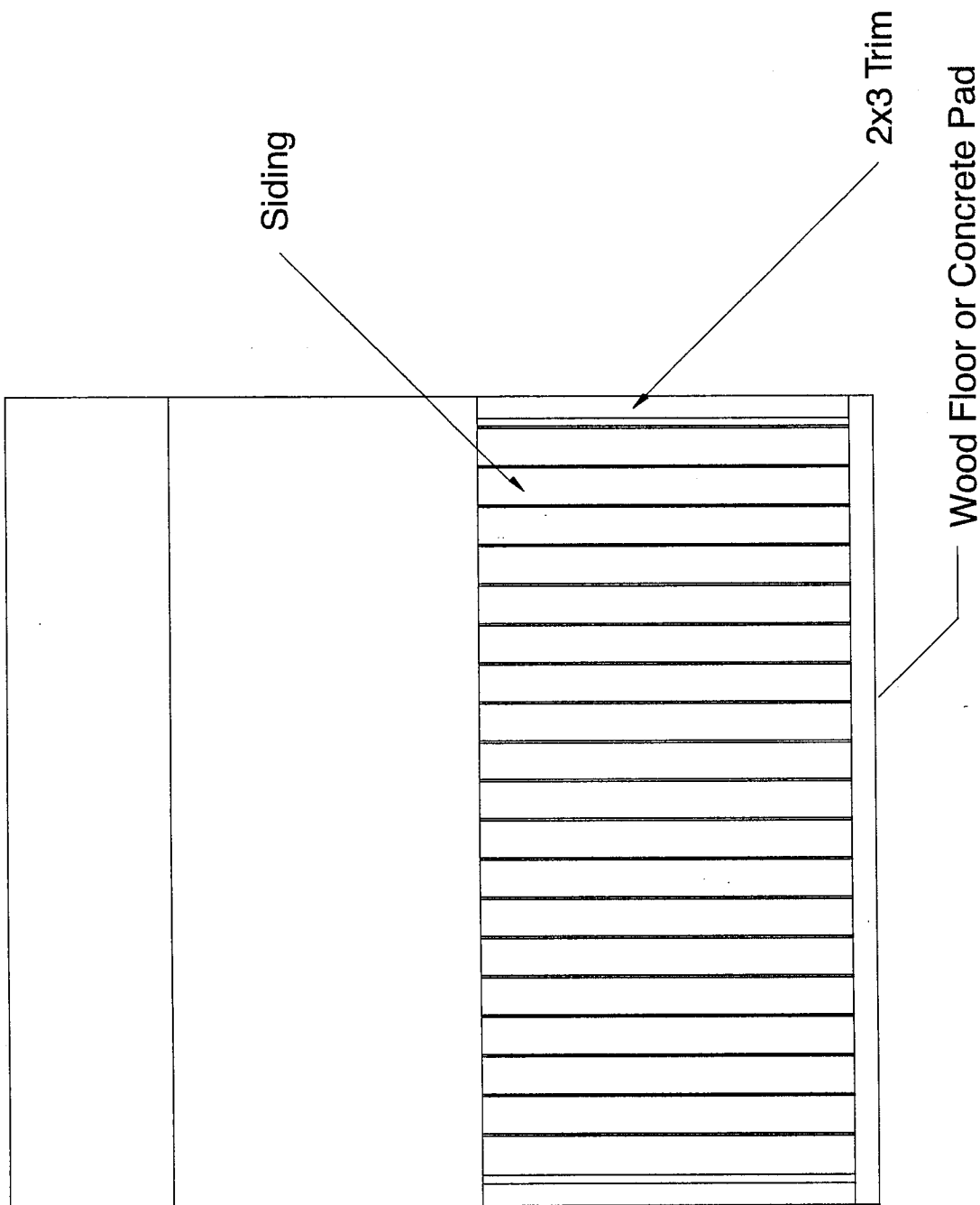


WOOD FLOOR LAYOUT

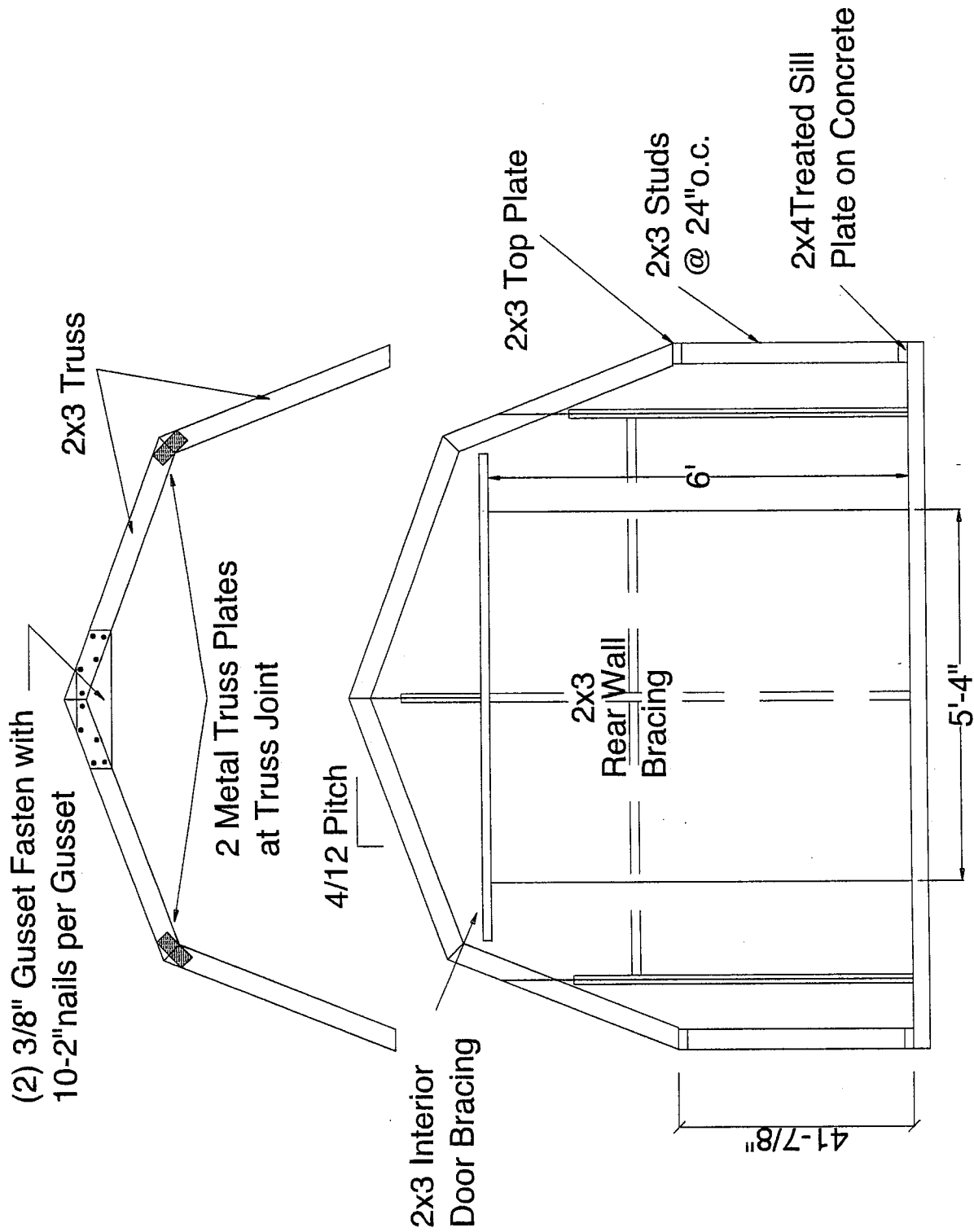




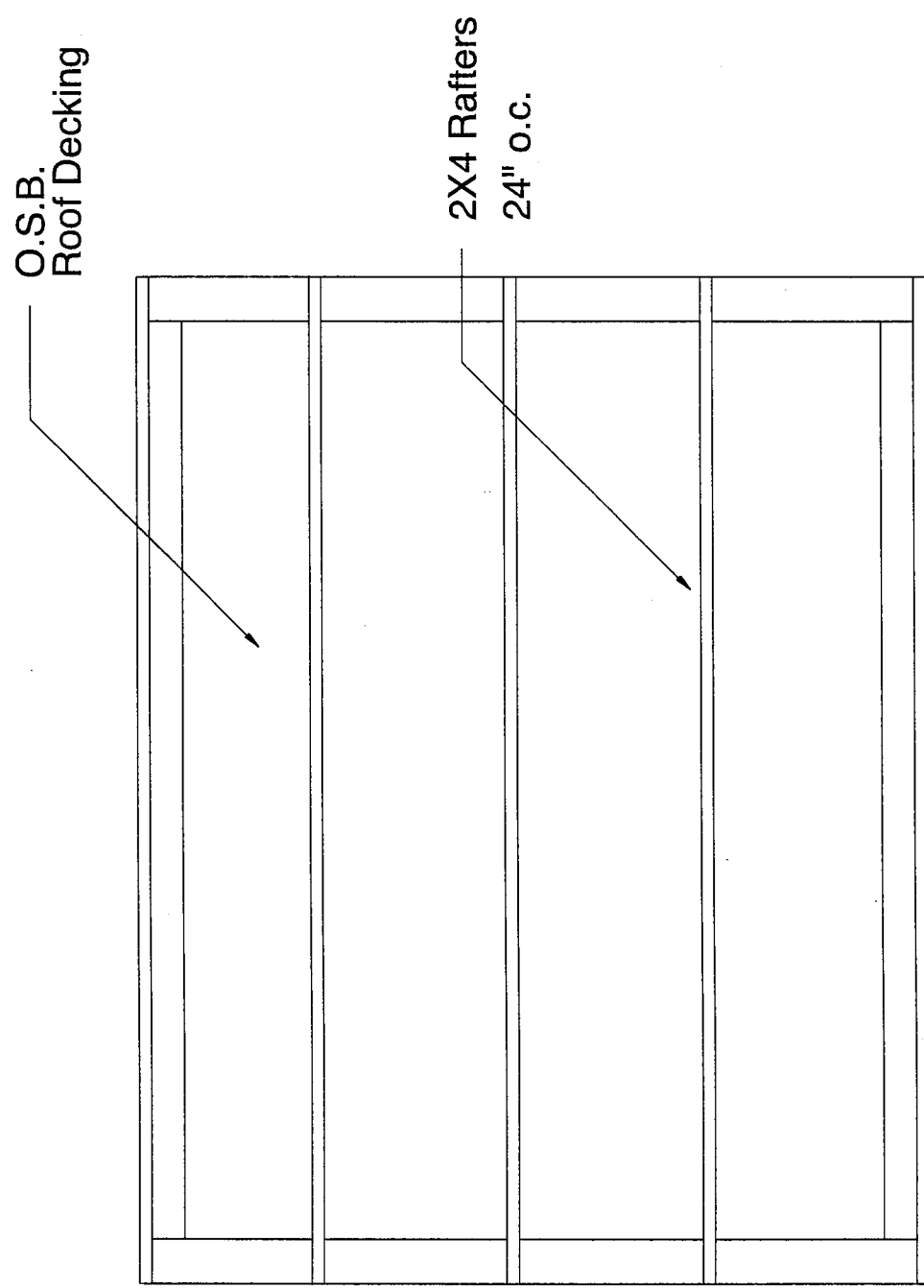
FRONT ELEVATION



LEFT SIDE ELEVATION



FRONT/REAR WALL FRAMING



ROOF FRAMING

NOTES: 1) The Roof System of this 10 ft. wide Gabrel style building has a live load capacity of 35 PSF. The equivalent ground snow load per ANCE 7-97 is 68 PSF which exceeds the 16.2 PSF pressure for a 110 mph wind per ASCE 7-97.

2) This plan supplements assembly instructions prepared by Handy Home Products.

3) Kits for extending the building in 4 ft. increments are identical in construction to the basic building.

STRUCTURAL ANALYSIS:

f b = 1200 PSC
 f v = 80 psi
 Sx 2"x3" = 1.56 in Area = 3.75 in

DEAD LOAD:
 Max Rafter Moment = fb Sx/12=156 ft.lb.
 Max Rafter Shear = 80x3.75=300 lb.
 Max Stud Moment = 156 ft. lb.

WALL SYSTEM:

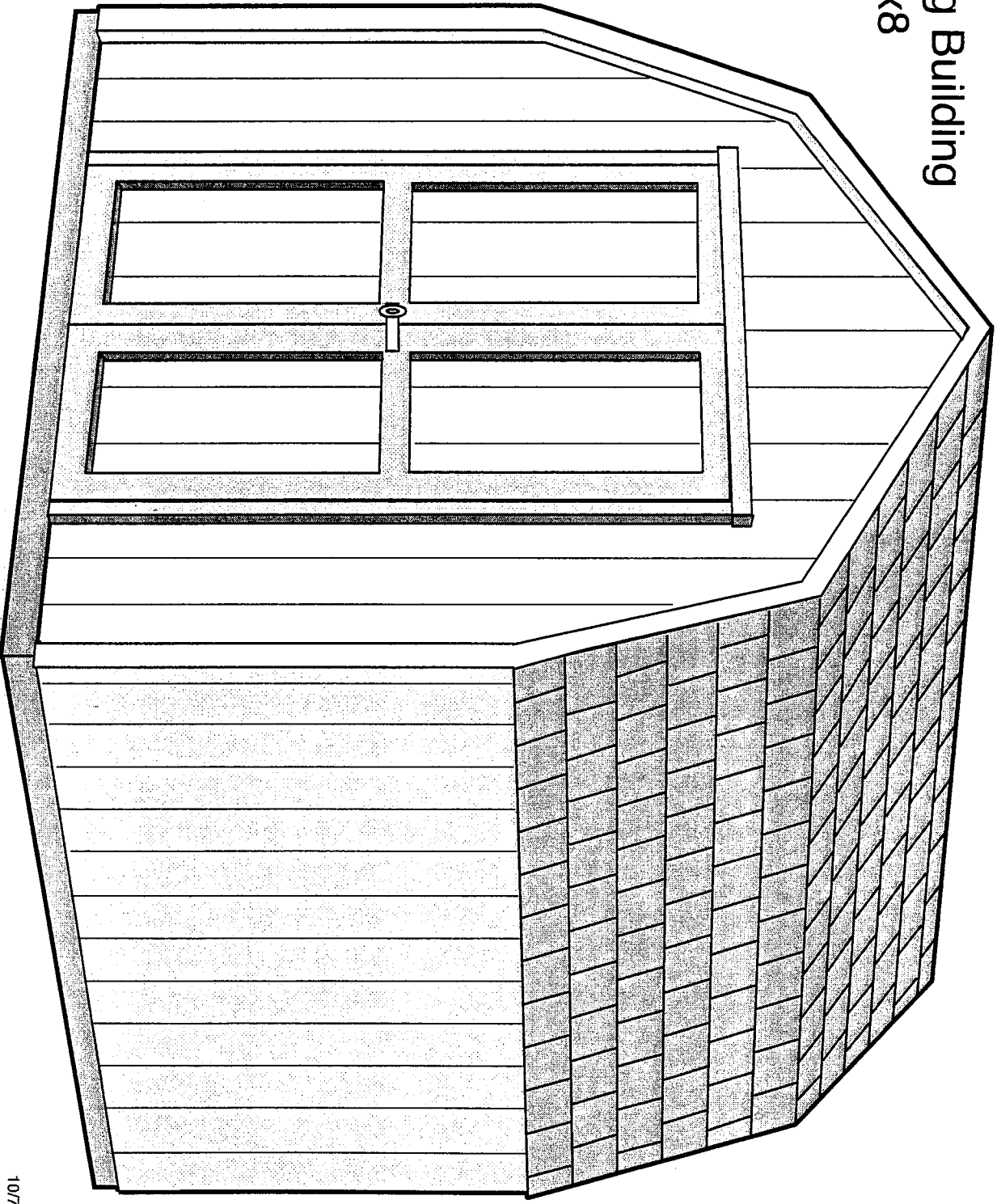
1) Studs 2x3@24"cc L=3.3ft. w=8M/L2=114PLF=57 PSF
 2) Wind Loading V = 110 mph EXP 1
 Kz=0.37 Gh=1.65 GCpl=-0.25
 I=0.95 Cp=0.8
 Velocity Pressure=8z=.00256Kz(IV) =10.3PSF
 Design Pressure=P=qfGhCp-(qhGCpl)=16.2PSF
 ok<57PSF

ROOF SYSTEM:

1) Rafters 2x3@2'cc w=8M/L2 = 78PLF=39 PSF-4
 2) Rafter Shear w=2V/L = 150 PLF=75 PSF-4
 3) Sheathing w=49PSF-4=45psf
 4) Ground Snow Load: Ref ASCE 7-97
 Ps=35PSF I=0.8
 Cs=0.95 Ce=0.8
 Ct=1.2 Pf=35/0.95=36PSF
 Pg=PF/7CeCtI=68 PSF Ground Snow Capacity

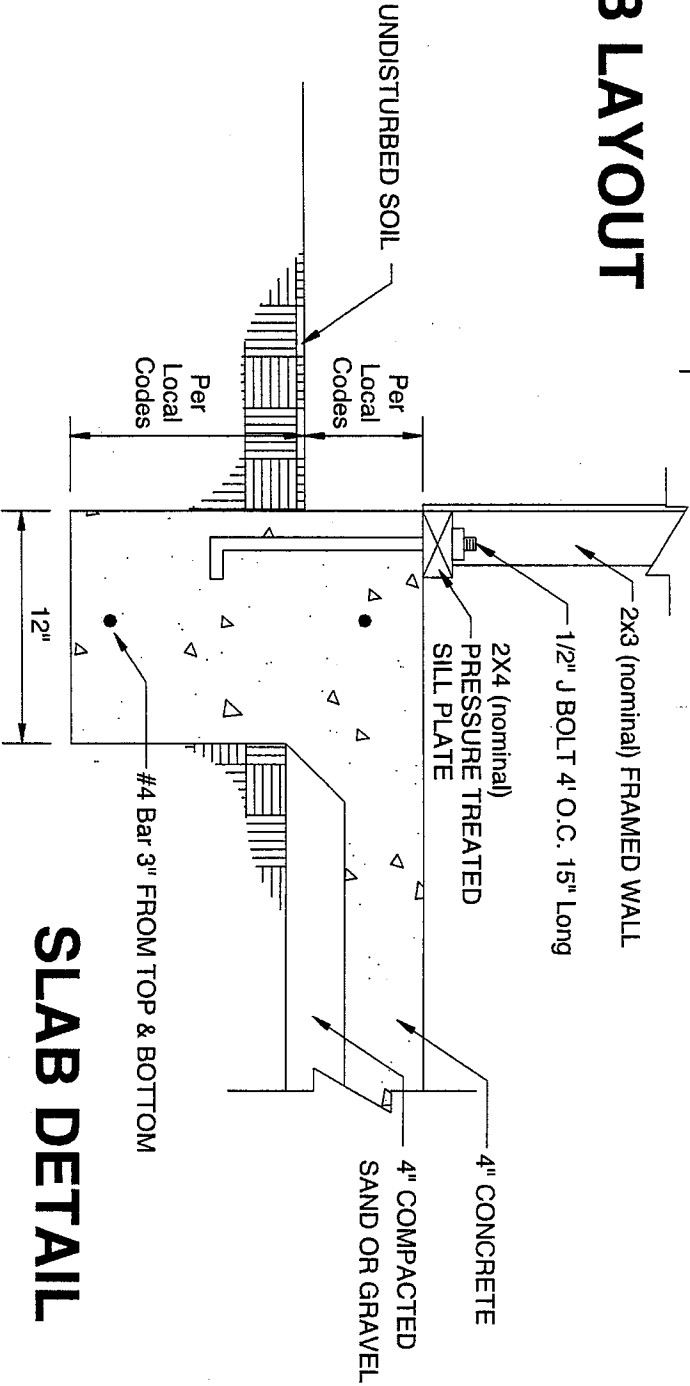
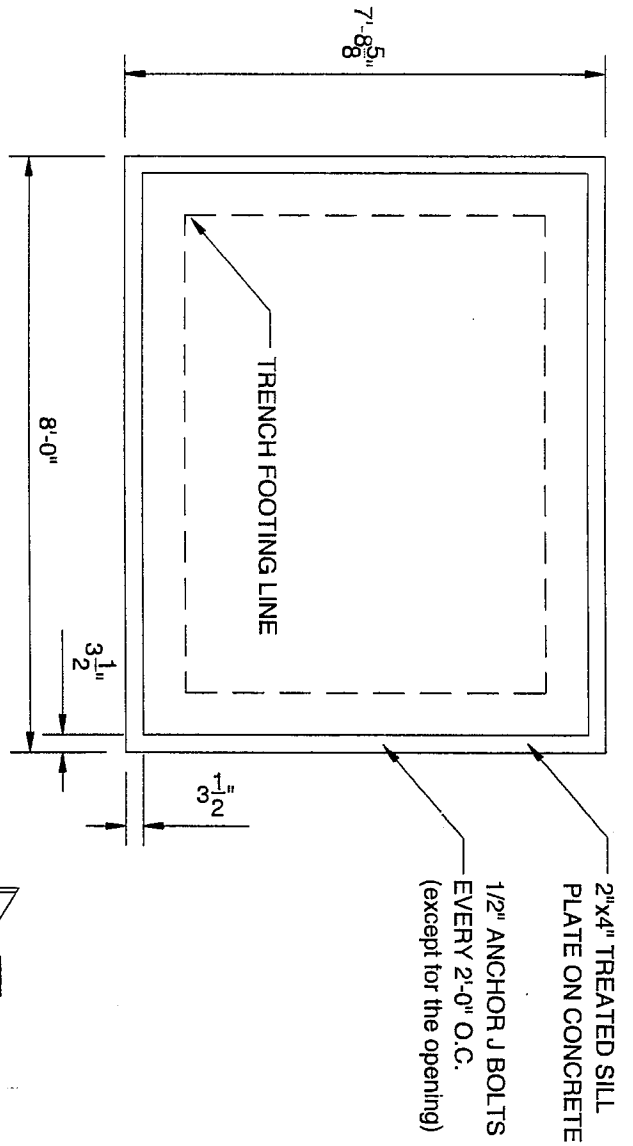
8' Marco Series Gambrel Building

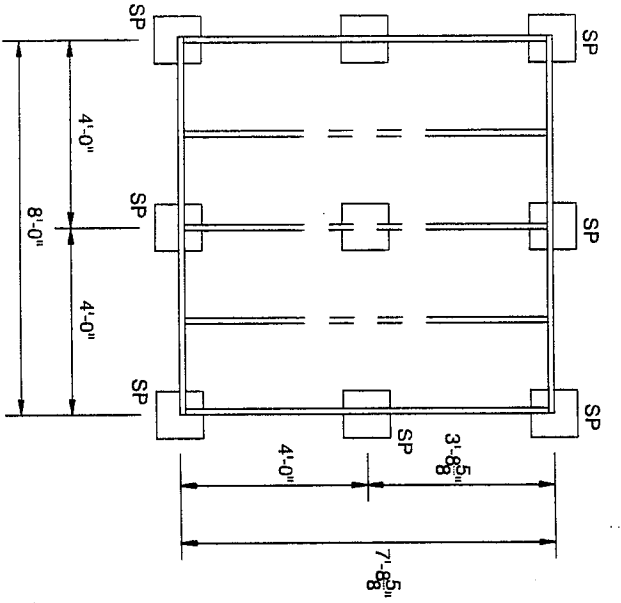
Engineering Building
Plans for 8x8



BOOK 2987
PAGE 666

10/7/03

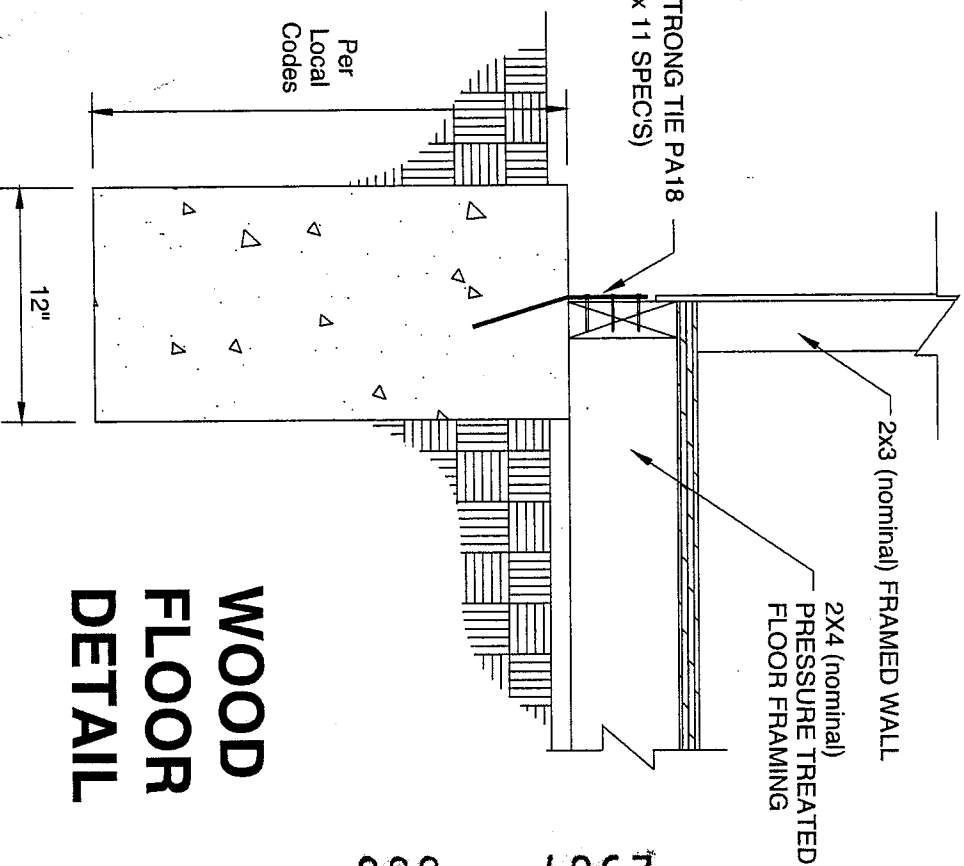




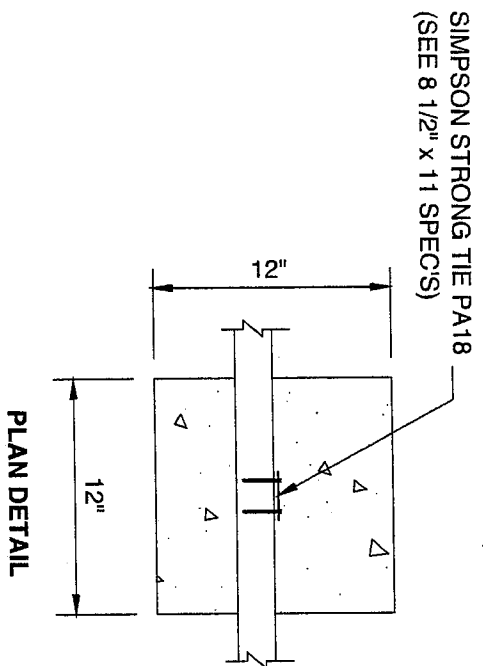
WOOD FLOOR LAYOUT

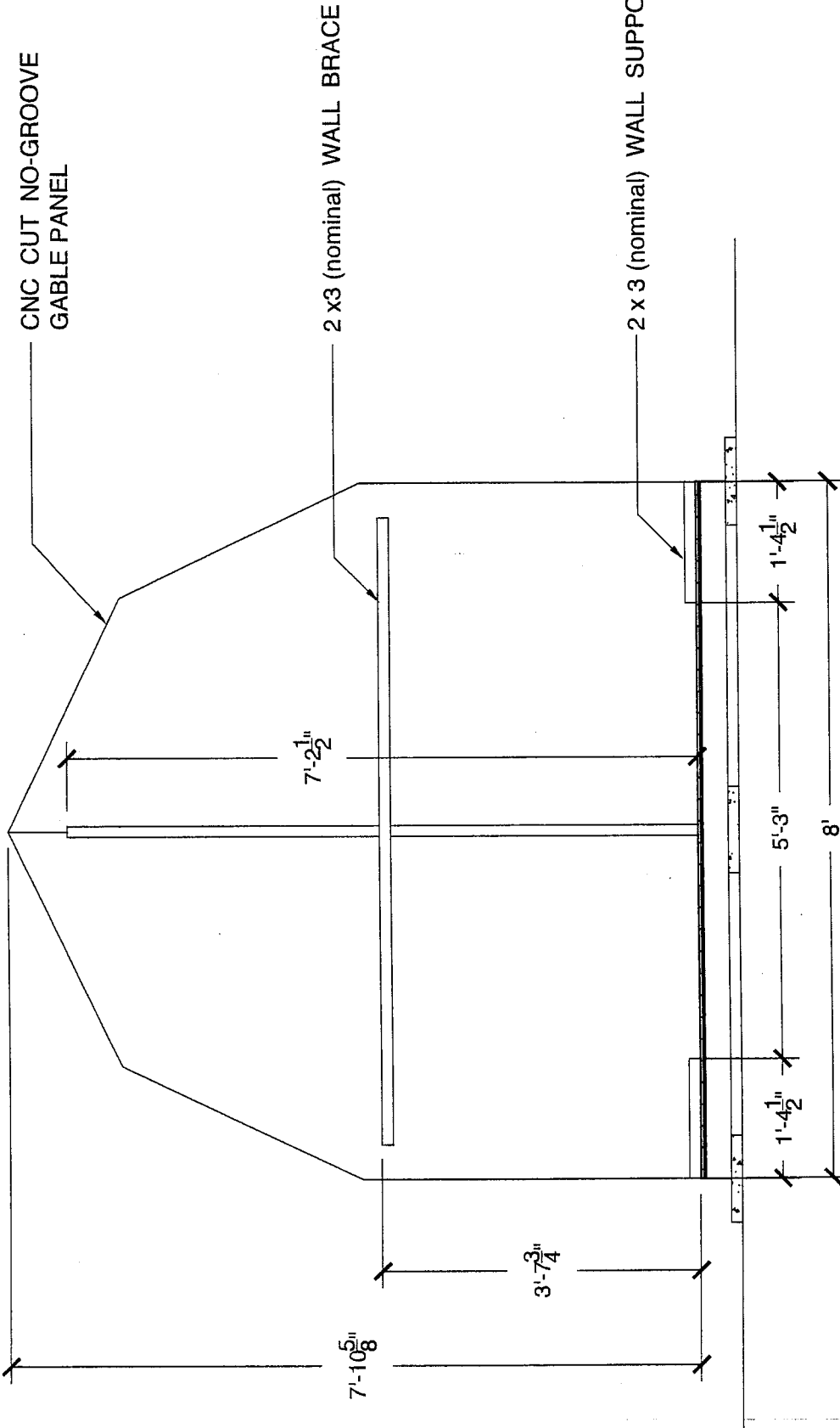
NOTE:
 1.) ONLY THE PIERS INDICATED WITH SP ARE
 REQUIRED TO HAVE SIMPSON STRONG TIES

SIMPSON STRONG TIE PA18
 (SEE 8 1/2" x 11 SPECS)

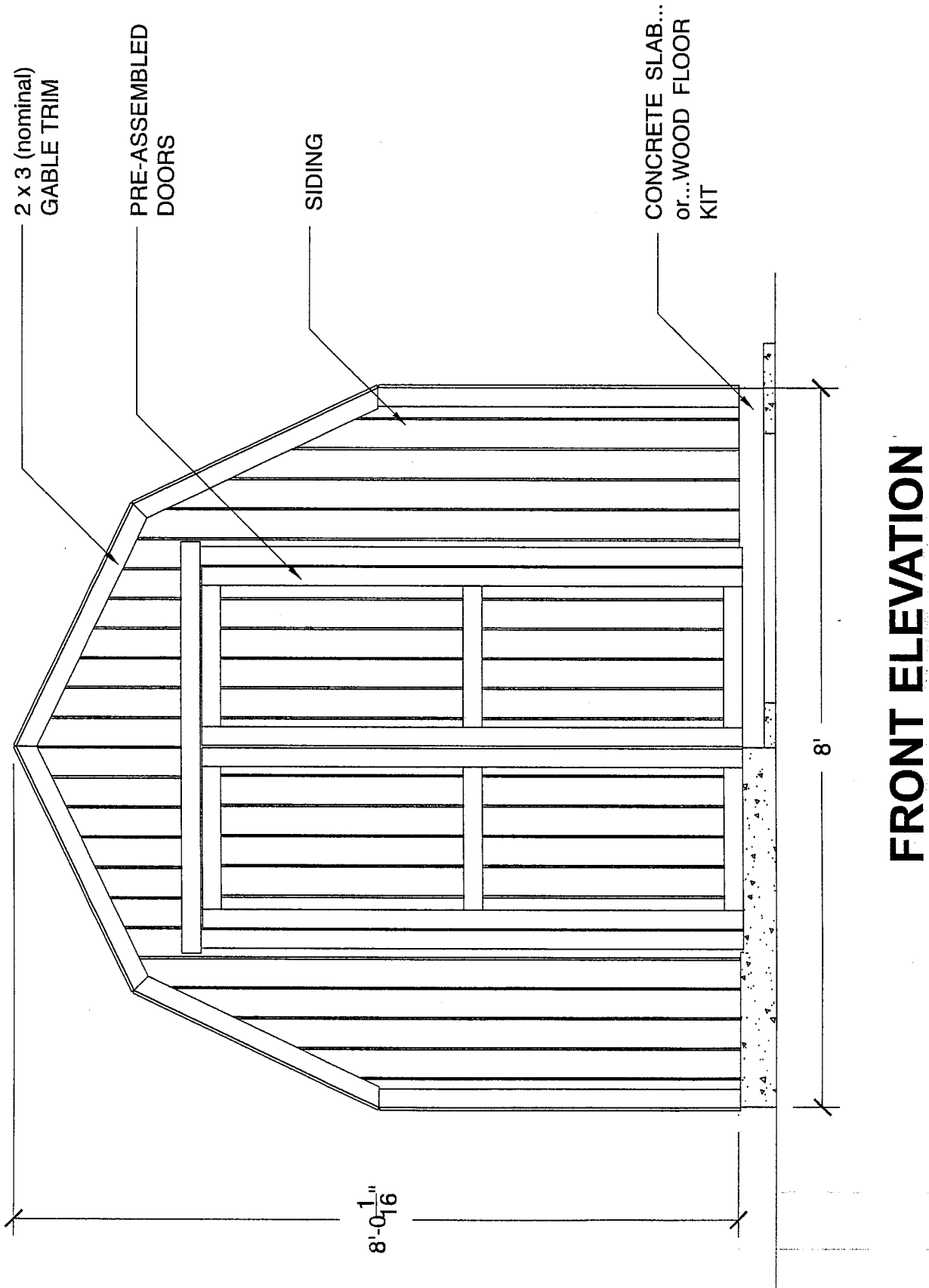


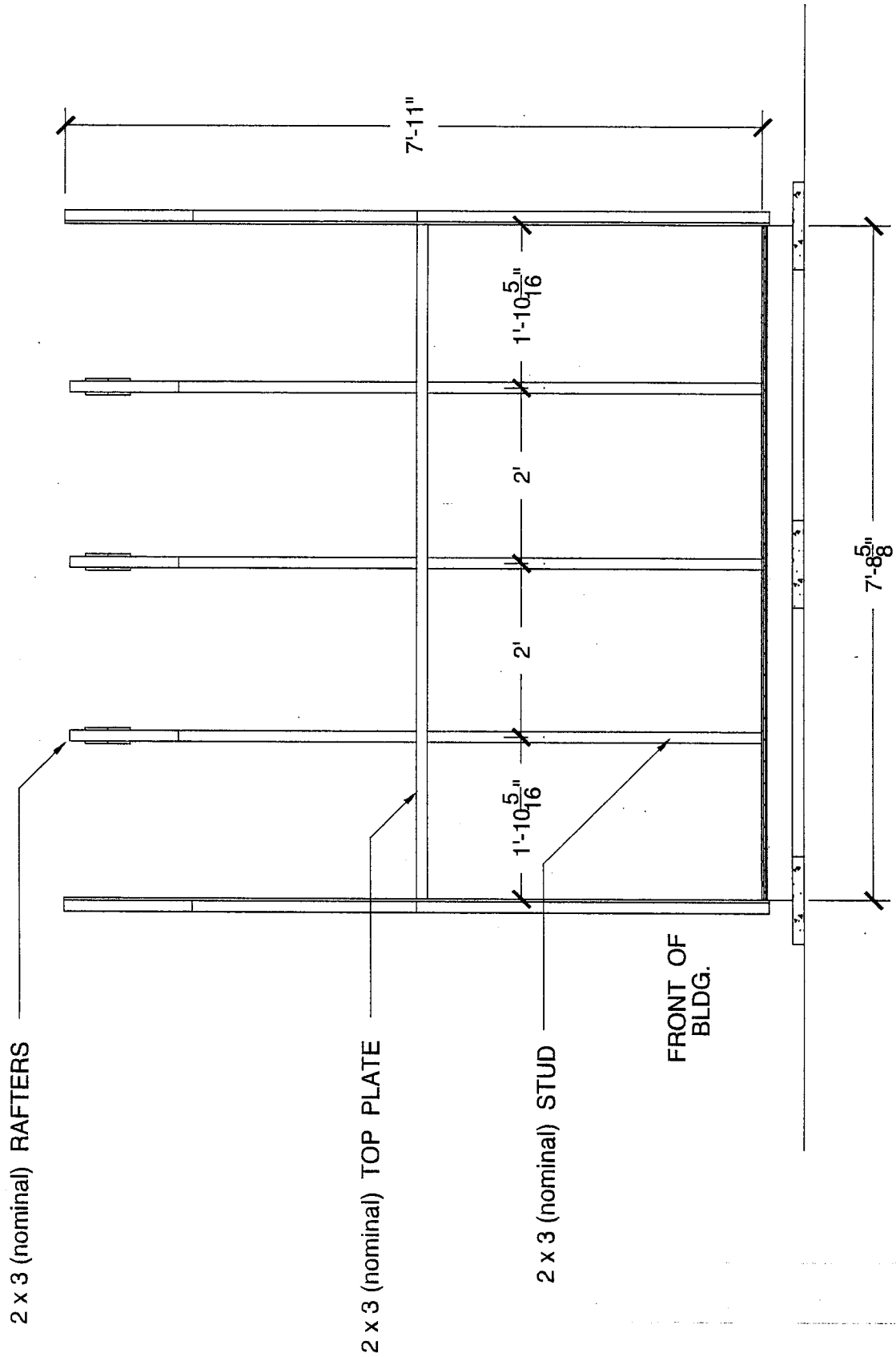
WOOD FLOOR DETAIL





BACK WALL FRAMING





SIDE FRAMING

(2) 3/8" GUSSETS ... Fastened
With (10) 2" Nails & (2) Beads
Of Exterior Wood Glue

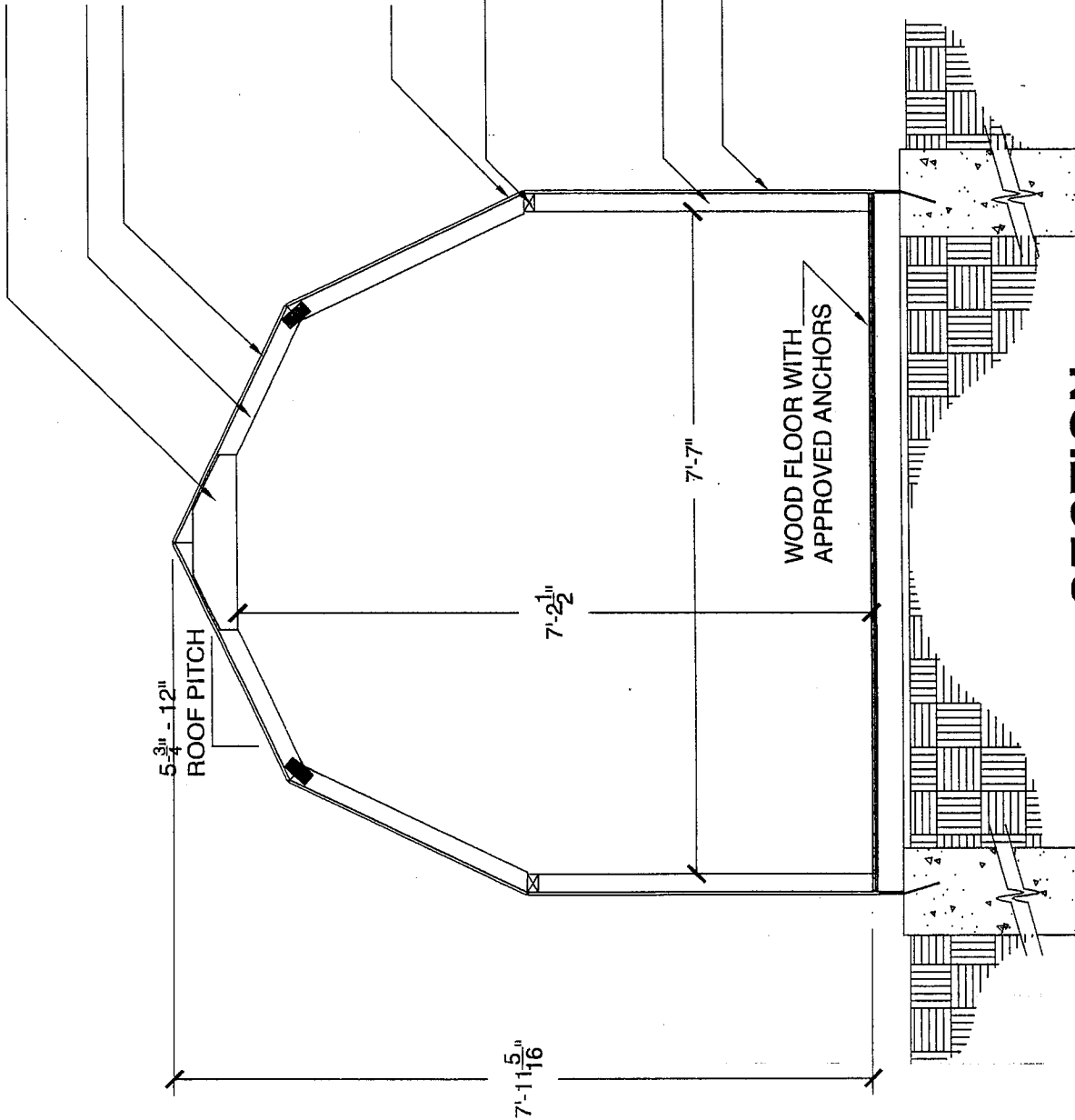
2 x 3 (nominal) RAFTERS
3/8" ROOF PANEL

SECURE TRUSSES with (2) 3"-16d
NAILS TOE-NAILED INTO TOP PLATE

2 x 3 (nominal) TOP PLATE

2 x 3 (nominal) STUD

SIDING



SECTION

- NOTES: 1) The Roof System of this 8 ft. wide Gabrel style building has a live load capacity of 35 PSF. The equivalent ground snow load per ANCE 7-97 is 68 PSF which exceeds the 16.2 PSF pressure for a 110 mph wind per ASCE 7-97.
- 2) This plan supplements assembly instructions.

STRUCTURAL ANALYSIS:

f b = 1200 PSC
 f v = 80 psi
 Sx 2"x3" = 1.56 in Area = 3.75 in

DEAD LOAD:
 Max Rafter Moment = fb Sx/12=156 ft.lb.
 Max Rafter Shear = 80x3.75=300 lb.
 Max Stud Moment = 156 ft. lb.

WALL SYSTEM:

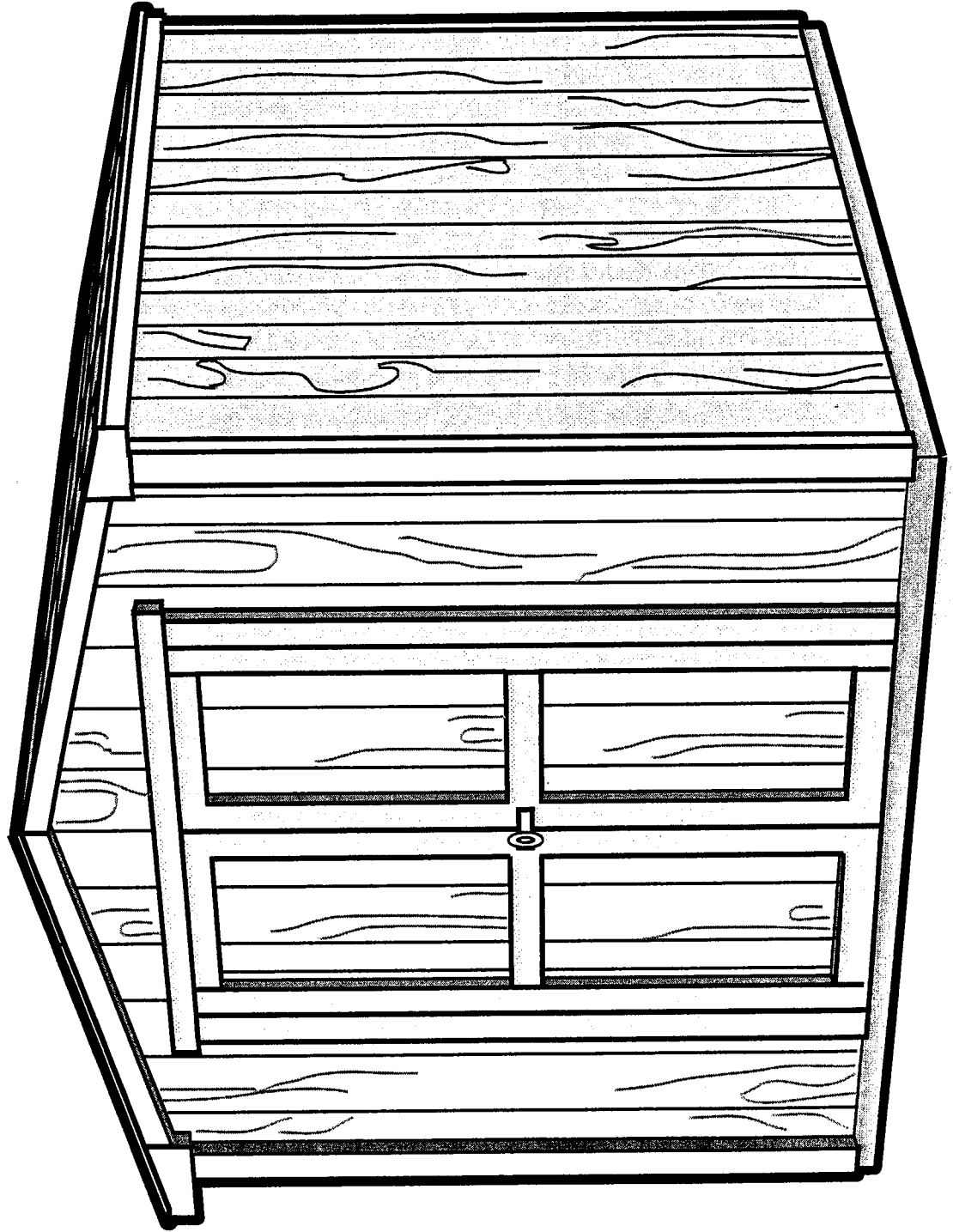
1) Studs 2x3@24"cc L=3.3ft. w=8M/L2=114PLF=57 PSF
 2) Wind Loading V = 110 mph EXP 1
 Kz=0.37 Gh=1.65 GCpl=-0.25
 I=0.95 Cp=0.8
 Velocity Pressure=8z=.00256Kz(IV) =10.3PSF
 Design Pressure=P=qfGhCp-(qhGCpl)=16.2PSF
 ok<57PSF

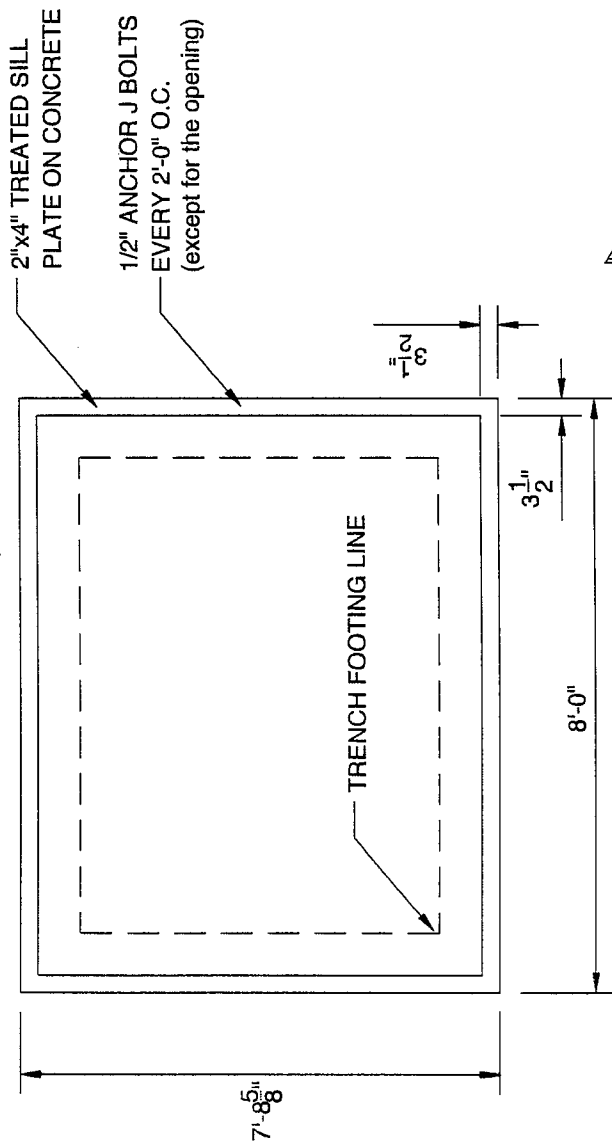
ROOF SYSTEM:

1) Rafters 2x3@2'cc w=8M/L2 = 78PLF=39 PSF-4
 2) Rafter Shear w=2V/L = 150 PLF=75 PSF-4
 3) Sheathing w=49PSF-4=45psf
 4) Ground Snow Load: Ref ASCE 7-97
 Ps=35PSF I=0.8
 Cs=0.95 Ce=0.8
 Ct=1.2 Pf=35/0.95=36PSF
 Pg=PF/7CeCtI=68 PSF Ground Snow Capacity

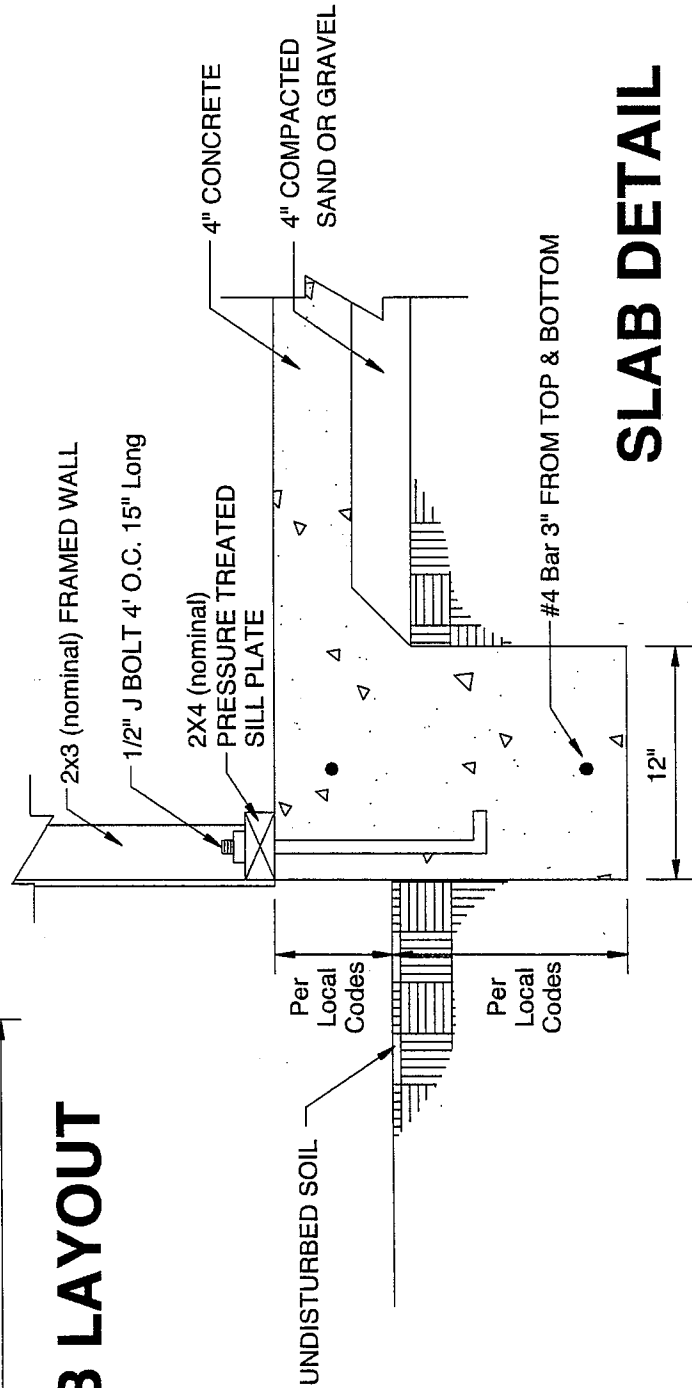
8' Marco Series Gable Building

Engineering Building
Plans





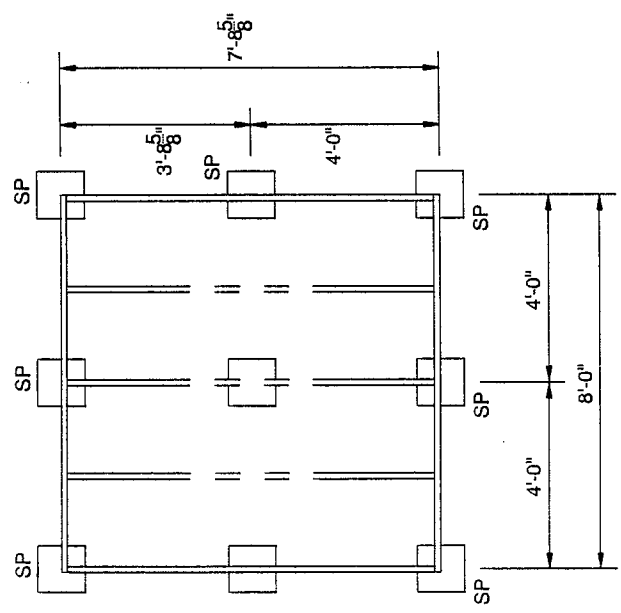
SLAB LAYOUT



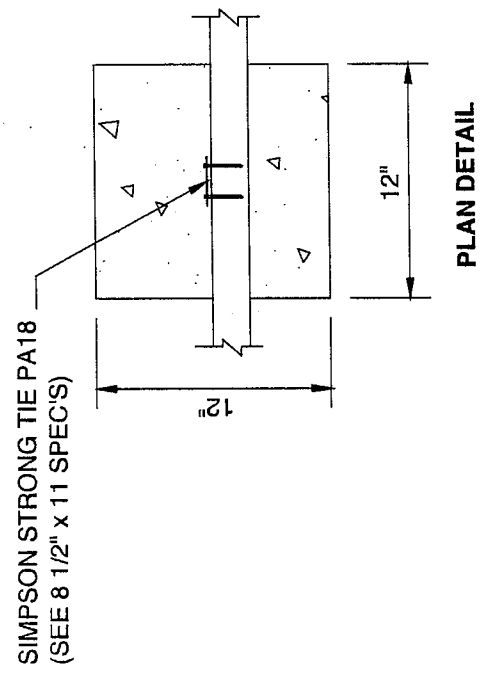
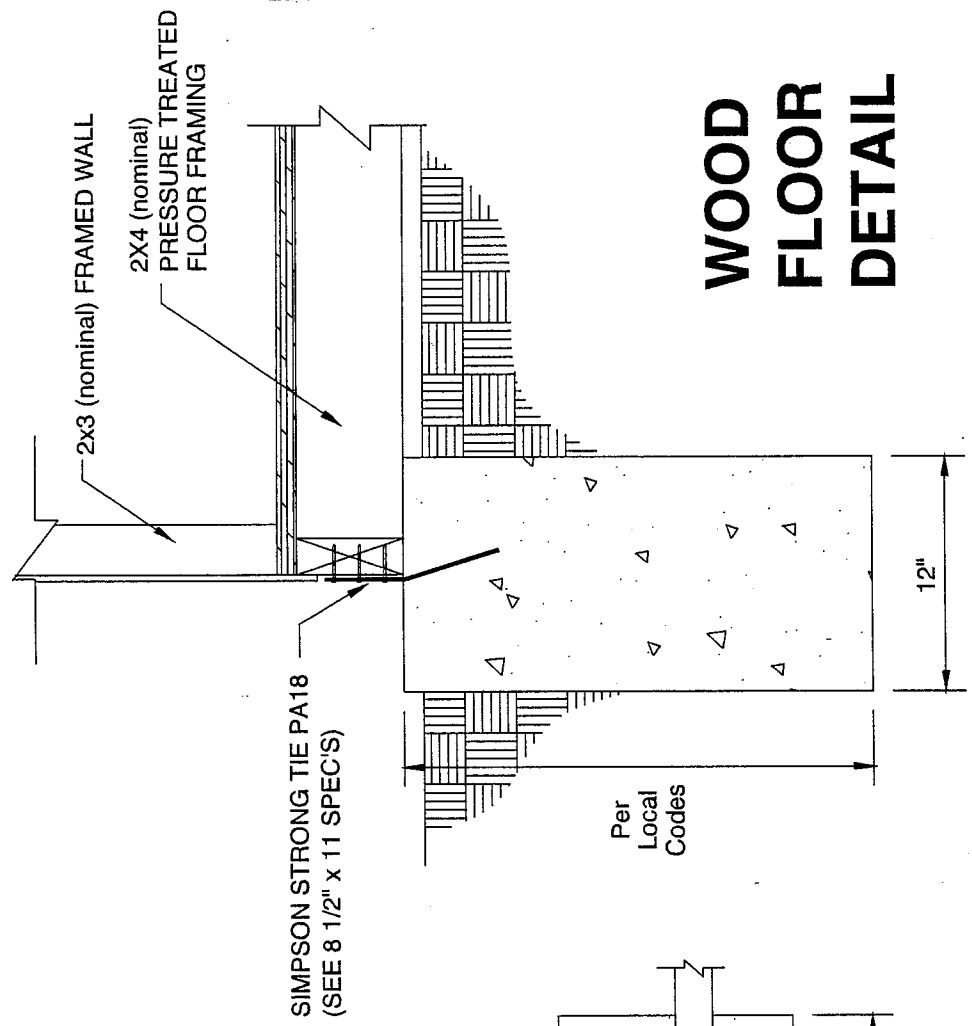
SLAB DETAIL

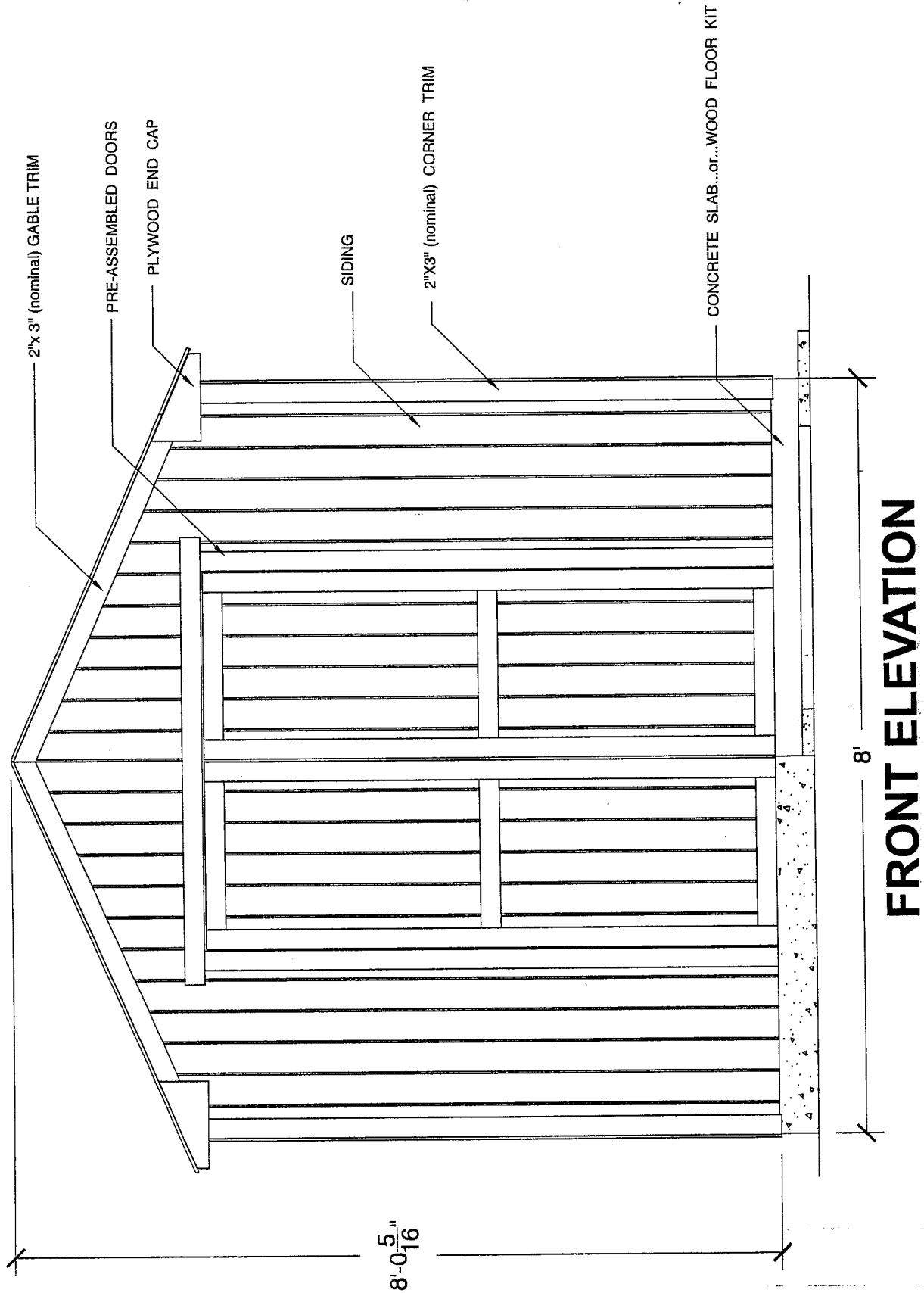
WOOD FLOOR DETAIL

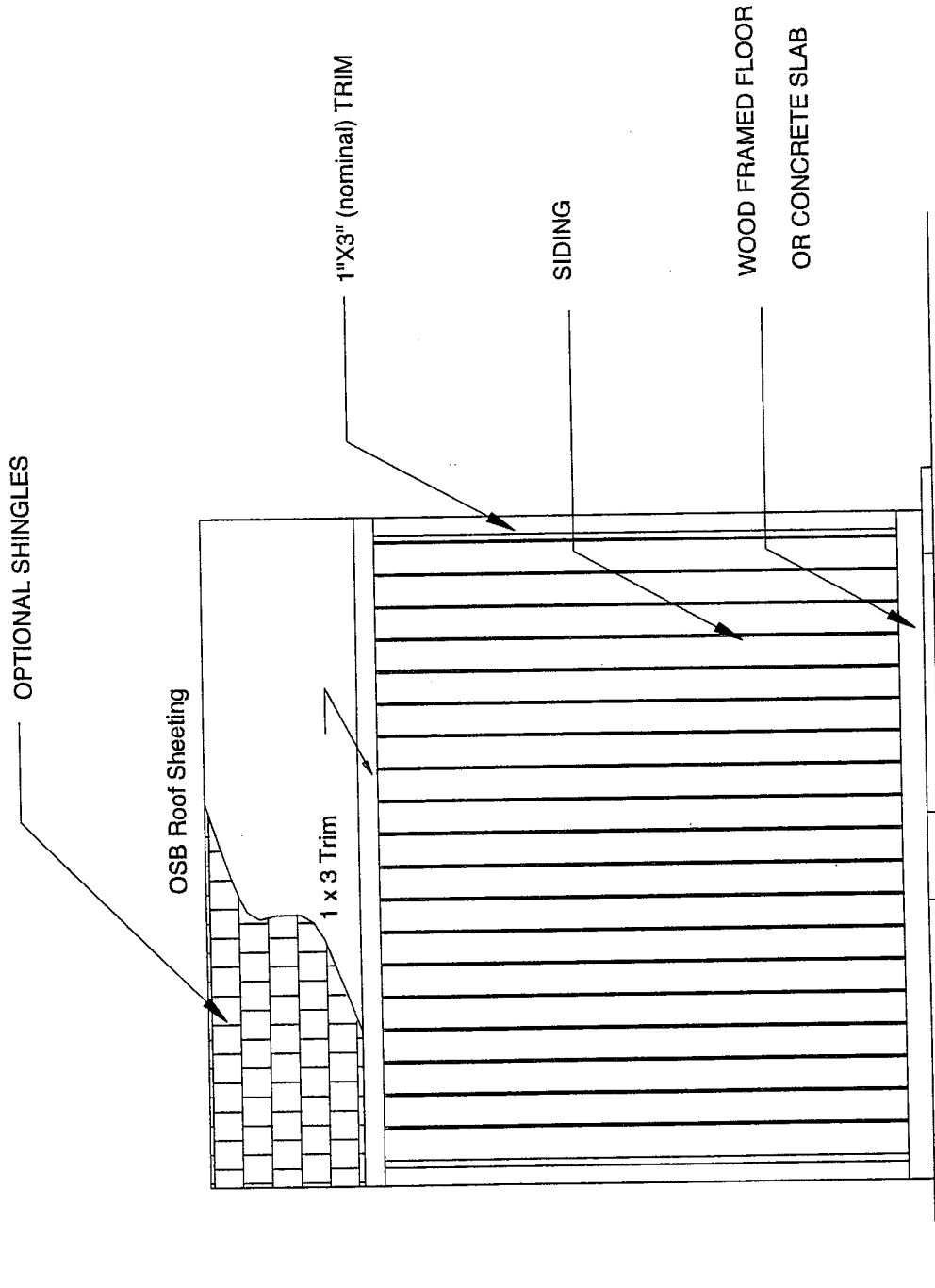
NOTE:
1.) ONLY THE PIERS INDICATED WITH SP ARE
REQUIRED TO HAVE SIMPSON STRONG TIES



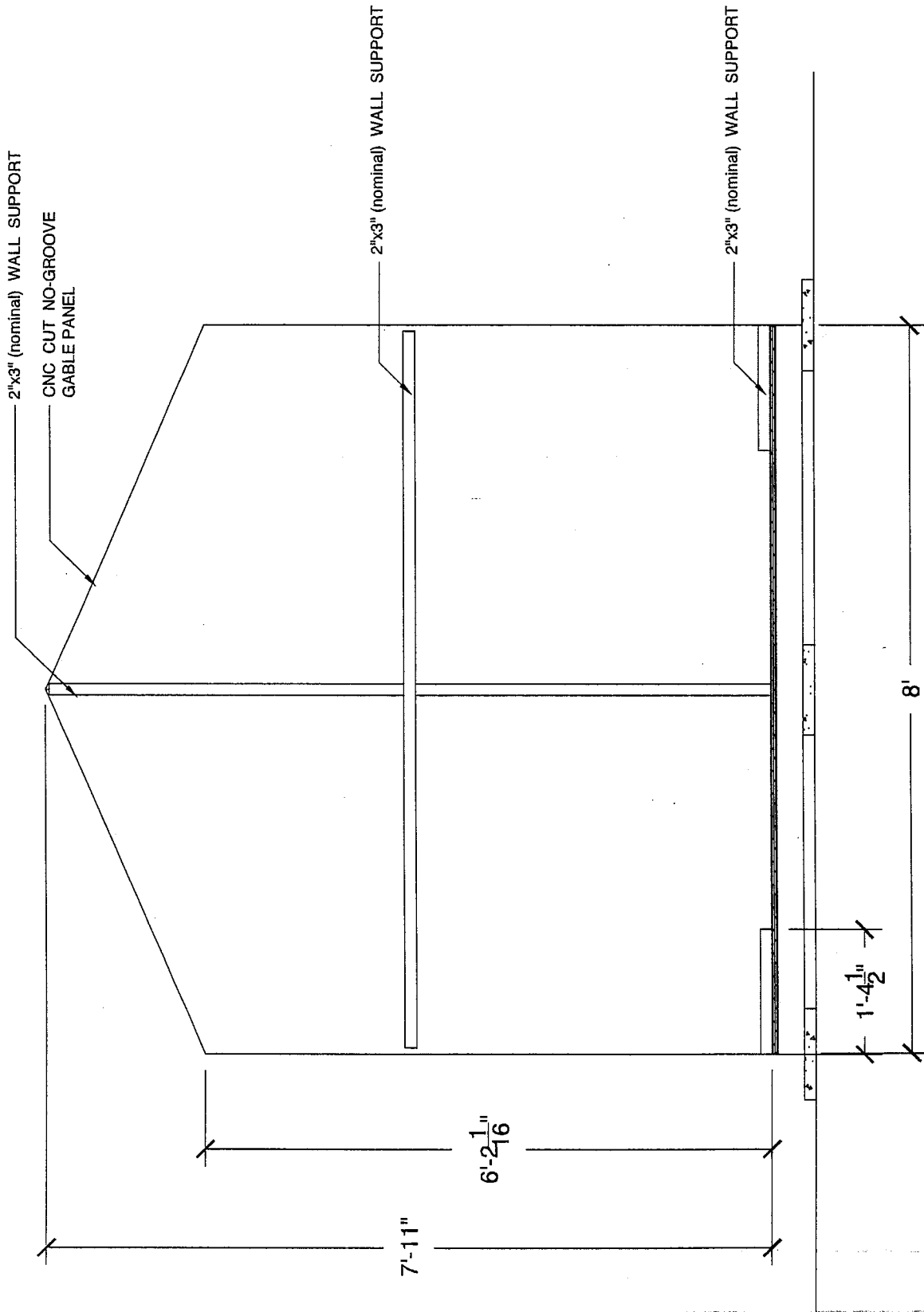
WOOD FLOOR LAYOUT



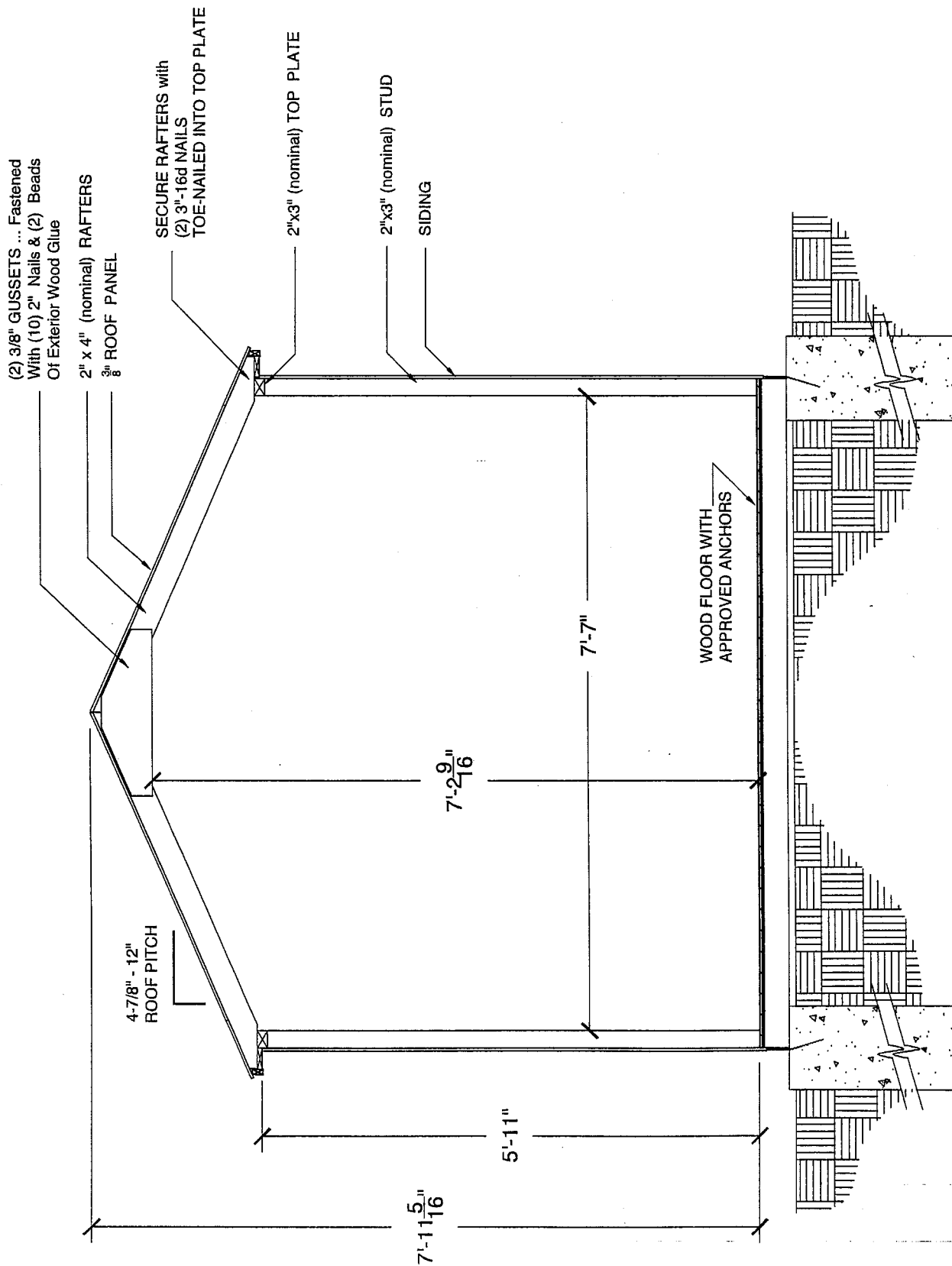




LEFT ELEVATION



BACK WALL FRAMING



SECTION DETAIL

Doc # 2004029138
Bk 2987
Pg 544-681
DATE 10/22/04 15:07:22
Filing Fee \$287.00
Documentary Tax \$0.00
State of Oklahoma
County of CANADIAN
CANADIAN County Clerk
PHYLLIS BLAIR



Num. Index _____
B.& P.N. Index _____
Margin _____

NOTES: 1) The Roof System of this 8 ft. wide Gable style building has a live load capacity of 45 PSF. The equivalent ground snow load per ANCE 7-98 is 88 PSF which exceeds the 17.3 PSF pressure for a 110 mph wind per ASCE 7-98.
2) This plan supplements assembly instructions.

STRUCTURAL ANALYSIS:

f b = 1200 PSC
f v = 80 psi
Sx 2"x3" = 1.56 in Area = 3.75 in
Dead Load = 4 PSF (Roof)
Max Rafter Moment = fb Sx/12=306 ft.lb.
Max Rafter Shear = 80x3.75=300 lb.
Max Stud Moment = 156 ft. lb.

WALL SYSTEM:

1) Studs 2x3@24"cc L=3.3ft. w=8M/L2=114PLF=57 PSF
2) Wind Loading V = 110 mph EXP 1
Kz=0.37 Gh=1.65 GCpl=-0.25
I=0.95 Cp=0.8
Velocity Pressure=8z=.00256Kz(IV) =10.3PSF
Design Pressure=P=qfGhCp-(qhGCpl)=16.2PSF
ok<57PSF

ROOF SYSTEM:

1) Rafters 2x4@2'cc w=8M/L2 = 76PLF=45 PSF-4
2) Rafter Shear w=2V/L = 117 PLF=92 PSF-4
3) Sheathing w=45PSF-4=45psf
4) Ground Snow Load: Ref ASCE 7-98
Ps=45PSF I=0.8
Cs=0.95 Ce=0.8
Ct=1.2 Pf=45/0.95=47.4PSF
Pg=PF/7CeCtI=88 PSF Ground Snow Capacity