

VOL 6472 PAGE 1519

THE LOFTS AT WETHERINGTON CONDOMINIUM

FIRST AMENDMENT

TO

DECLARATION OF CONDOMINIUM OWNERSHIP

IN ACCORDANCE WITH OHIO REVISED CODE CHAPTER 5311,  
INCLUDING SUBJECTING SAID PROPERTY TO CERTAIN COVENANTS,  
RESTRICTIONS AND EASEMENTS

[Phase 2]

This will certify that copies of this First Amendment to Declaration, together with the Phase 2 drawings, have been filed in the office of the County Auditor, Butler County, Ohio, this 8<sup>th</sup> day of May, 2000.

**TRANSFER NOT NECESSARY**

BUTLER COUNTY AUDITOR

KAY ROGERS

BY 383600m DEPT.

AUDITOR, BUTLER CO., OHIO

By: 

Prepared by:

Michael A. Ruh, Jr., Esq.  
Strauss & Troy  
A Legal Professional Association  
The Federal Reserve Building  
150 East Fourth Street  
Cincinnati, Ohio 45202  
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Filed for Record in  
BUTLER COUNTY, OHIO  
DENNY N CRANK  
On 05-08-2000 At 10:09:06 am.  
DECLARATION 62.00  
OR Book 6472 Page 1519 - 1532

VOL 6472 PAGE 1520

**FIRST AMENDMENT  
TO  
DECLARATION OF CONDOMINIUM OWNERSHIP  
OF  
THE LOFTS AT WETHERINGTON CONDOMINIUM**

This First Amendment to Declaration of Condominium Ownership of The Lofts of Wetherington Condominium ("Amendment") is made effective as of the date of recording in the Butler County, Ohio Recorder's Office, by Wetherington II Builders, Inc., an Ohio corporation ("Declarant").

**RECITALS:**

1. On January 14, 2000, Declarant recorded at Official Record 6441, Page 962 of the Butler County, Ohio Recorder's Office (the "Records"), the Declaration of Condominium Ownership (the "Declaration") of The Lofts At Wetherington Condominium (the "Condominium").

2. On January 21, 2000, Declarant recorded at Official Record 6442, Page 2113 of the Records, the Correction Amendment To Declaration of Condominium Ownership of The Lofts At Wetherington Condominium ("Correction Amendment"). The term "Declaration" shall hereafter mean the Declaration, as so amended.

3. As set forth in the Declaration, Declarant subjected the property described on Exhibit B thereto to Ohio Revised Code Chapter 5311 (the "Condominium Act"), thereby creating Phase 1 of the Condominium;

4. The Condominium is an "expandable condominium", as that term is defined in the Condominium Act and as provided for in the Declaration, and Declarant has elected to add to the Condominium Property a portion of Additional Property which added portion shall be generally referred to as "Phase 2" of the Condominium both in this Amendment and in the corresponding Drawings.

**NOW, THEREFORE**, for the purposes, and pursuant to the procedures, set forth in the Declaration, and in order to subject Phase 2 of the Condominium to the Condominium Act, Declarant hereby amends and modifies the Declaration as follows:

## **INTRODUCTION**

All Article, Section and Exhibit references in this Amendment correspond with the Article, Section and Exhibit references of the same designation in the Declaration. The purpose of the amendments to Article II (set forth below) is to clarify the previous amendments to the Declaration as set forth in the Correction Amendment.

### **ARTICLE I**

#### **Definitions**

Section 1.07 "Condominium Property." This definition is modified to the extent necessary to reflect that the "Condominium Property" shall be comprised of the property described on Exhibit B (B-1 through B-2) attached to this Amendment and incorporated herein by this reference.

### **ARTICLE II**

#### **Establishment of Condominium and Division of Condominium Property**

Section 2.06. All references to "Unit Owners" or "Unit" in Section 2.06 shall be deemed to also refer to "Garage Unit Owners" and "Garage Units", respectively.

Section 2.07 to the Declaration is deleted and replaced in its entirety by the following:

Section 2.07 Calculation of Ownership Interests in Common Areas The undivided interest in the Common Areas and Facilities owned by each Unit Owner and Garage Unit Owner as determined by Declarant in accordance with the provisions of ORC Chapter 5311 shall for all purposes be controlled by the schedule attached hereto as Exhibit C. Each Unit has the same relative interest in the Common Areas and Facilities as each other Unit and each Garage Unit has the same relative interest in the Common Areas and Facilities as each other Garage Unit; however, Declarant has determined that Garage Units shall have a par value relative to Units of one-twentieth ( $1/20^{th}$ ) of a Unit. Therefore each Unit is hereby assigned a par value of twenty (20) and each Garage Unit is hereby assigned a par value of one (1). Accordingly, the undivided interest in the Common Areas and Facilities of a given Unit (or the Garage Unit) is determined by the percentage represented by a ratio, the numerator of which is the par value for the Unit (or the Garage Unit) and the denominator of which is the aggregate of the par values for all Units and Garage Units then in the Condominium Property (as the same may be expanded, pursuant to the terms of this Declaration, from time to time).

### **ARTICLE III**

#### **Description of Buildings and Units**

Section 3.01 Description of Building(s). The Lofts at Wetherington Condominium consists of a Clubhouse Building, multiple-unit buildings and multiple-unit garage buildings constructed of brick (approximately 75% of the surface) and vinyl siding (approximately 25% of surface) exteriors and wood and concrete structural components. Each Unit shall be either on the ground level or second floor, as shown on the drawings referenced on Exhibit D to the Declaration. Each numbered Unit building, except for the Clubhouse Building and garage buildings, contains from eight to sixteen Units and consists of single-family condominium Units as described below:

Clubhouse Building (Phase 1) - single floor, approximately 2052 square feet Common Area building for use by all Unit Owners, their permitted lessees and guests (subject to Association rules and regulations).

Building No. 1 (Phase 1) consists of eight (8) Units.  
 Building No. 2 (Phase 1) consists of eight (8) Units.  
 Building No. 3 (Phase 1) consists of eight (8) Units.  
 Building No. 4 (Phase 1) consists of eight (8) Units.  
 Building No. 5 (Phase 1) consists of eight (8) Units.  
 Building No. 6 (Phase 1) consists of eight (8) Units.  
 Building No. 7 (Phase 2) consists of eight (8) Units.  
 Building No. 8 (Phase 2) consists of eight (8) Units.

Garage Building No. 1 (Phase 1) consists of six (6)	Garage Units.
Garage Building No. 1 (Phase 1) consists of six (6)	Garage Units.
Garage Building No. 3 (Phase 1) consists of six (6)	Garage Units.
Garage Building No. 4 (Phase 1) consists of six (6)	Garage Units.
Garage Building No. 5 (Phase 1) consists of six (6)	Garage Units.
Garage Building No. 6 (Phase 1) consists of four (4)	Garage Units.
Garage Building No. 7 (Phase 2) consists of six (6)	Garage Units.
Garage Building No. 8 (Phase 2) consists of six (6)	Garage Units.

## ARTICLE 12

### Common Expenses and Limited Common Expenses

Section 12.02. The references to "Units" in the first sentence of Section 12.02 shall be deemed to also refer to "Garage Units".

Section 12.03, 12.04, 12.05. Sections 12.03, 12.04 and 12.05 are hereby amended to provide that all assessments for Common Expenses and Special Assessments shall be divided equally among all Units (regardless of whether the Unit Owners are also Garage Unit Owners) and shall not be assessed based upon percentage of interest in Common Areas.

Section 12.06. Section 12.06 is hereby amended to provide that any lien which the Association has against a Unit may also be filed against all Garage Units owned by the owner of said Unit.

## EXHIBITS

Exhibit A. No changes.

Exhibit B. Exhibit B to the Declaration is hereby replaced in its entirety by Exhibit B (B-1 through B-2) attached hereto and incorporated herein by this reference.

Exhibit C. Exhibit C and Exhibit C-1 to the Declaration are deleted and replaced in their entirety by Exhibit C attached hereto and incorporated herein by this reference.

Exhibit D. The references to the Drawings of the Condominium, as set forth in the Declaration and on Exhibit D to the Declaration, shall be deemed to include the Drawings for Phases 1 through 2, inclusive, of the Condominium, which will be (have been) separately recorded in the Butler County, Ohio plat records.

Exhibit E. Article VII, Section 3 of the By-Laws is hereby amended to provide that all assessments for Common Expenses and Special Assessments shall be divided equally among all Units (regardless of whether their Unit Owners are also Garage Unit Owners) and shall not be assessed based upon percentage of interest in Common Areas. Article X, Section 5 of By-Laws is hereby amended to provide that any lien which the Association has against a Unit may also be filed against all Garage Units owned by the owner of said Unit.

Except as expressly modified or amended by this Amendment, or as may be necessary to effect the terms of this Amendment, the Declaration, as previously amended, remains unchanged and is in full force and effect.


IN WITNESS WHEREOF, the Declarant, Wetherington II Builders, Inc., an Ohio corporation, owner in fee simple of the Condominium Property, has caused its name to be hereunto subscribed by its president effective as of the date first written on page 1 above.

Signed and Acknowledged  
in the presence of:

**WETHERINGTON II BUILDERS, INC.,**  
an Ohio corporation

  
Printed Name: CHRIS KENNEDY

  
Printed Name: MICHELE TRONER

By:   
A. William Erpenbeck, President



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**EXHIBIT B**

**EXHIBIT B-1**

(Legal Description – Phase 1)

- Attached -

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**EXHIBIT B**

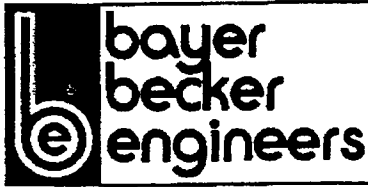
(Continued)

**EXHIBIT B-2**

(Legal Description – Phase 2)

- Attached -





engineers  
planners  
architects  
surveyors

6900 Tylersville Road, Suite A  
Mason, Ohio 45040  
p. 513.336.6600  
f. 513.336.9365  
mason@bayerbecker.com

January 25, 2000

**DESCRIPTION:**

1.226 Acre Parcel  
Phase 2

**LOCATION:**

The Lofts at Wetherington  
Union Township

Situated in Section 18, Town 3, Range 2, Union Township, Butler County, Ohio and being a 1.226 acre parcel of land being further described as follows:

Begin at a point found by measuring from an existing iron pin at the most northwesterly corner of lot 348, of Wetherington, Section Ten, as recorded in Plat Envelope 2533, Pages A-C of the Butler County Recorder's Office; said point also being on the northerly line of said section, South 82°19'39" East, 753.61 feet; thence South 11°53'08" East, 48.06 feet to a point on the southerly right-of-way of Tylers Place Boulevard; thence with said right-of-way South 76°07'31" East, 66.62 feet; thence South 11°53'08" East, 511.05 feet to an existing 5/8" iron pin, thence South 78°06'52" West, 60.00 feet to an existing 5/8" iron pin, thence South 11°53'08" East, 92.83 feet to the point of beginning;

thence	from the true point of beginning thus found, North 78°06'52" East, 250.39 feet;
thence	South 12°40'10" East, 210.26 feet;
thence	South 77°19'50" West, 253.29 feet;
thence	North 11°53'08" West, 213.71 feet to the point of beginning containing 1.226 acres of land subject to all easements and rights-of-way of record.

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**EXHIBIT C**  
 (4 Pages)  
**THE LOFTS AT WETHERINGTON CONDOMINIUM**  
 (Phases 1-2)

<u>Unit or Garage Unit No.</u>	<u>Unit Type</u>	<u>Approximate Square Footage*</u>	<u>Par Value</u>	<u>Percentage Interest In Common Areas**</u>	<u>Auditor's Parcel #</u>
1A	A	960	20	1.50824% ***	M 5620-404-000-055
1B	A	960	20	1.5083%	M 5620-404-000-056
1C	B	1096	20	1.5083%	M 5620-404-000-057
1D	B	1096	20	1.5083%	M 5620-404-000-058
1E	A	960	20	1.5083%	M 5620-404-000-059
1F	A	960	20	1.5083%	M 5620-404-000-060
1G	B	1096	20	1.5083%	M 5620-404-000-061
1H	B	1096	20	1.5083%	M 5620-404-000-062
2A	A	960	20	1.5083%	M 5620-404-000-063
2B	A	960	20	1.5083%	M 5620-404-000-064
2C	B	1096	20	1.5083%	M 5620-404-000-065
2D	B	1096	20	1.5083%	M 5620-404-000-066
2E	A	960	20	1.5083%	M 5620-404-000-067
2F	A	960	20	1.5083%	M 5620-404-000-068
2G	B	1096	20	1.5083%	M 5620-404-000-069
2H	B	1096	20	1.5083%	M 5620-404-000-070
3A	A	960	20	1.5083%	M 5620-404-000-071
3B	A	960	20	1.5083%	M 5620-404-000-072
3C	B	1096	20	1.5083%	M 5620-404-000-073
3D	B	1096	20	1.5083%	M 5620-404-000-074
3E	A	960	20	1.5083%	M 5620-404-000-075
3F	A	960	20	1.5083%	M 5620-404-000-076
3G	B	1096	20	1.5083%	M 5620-404-000-077
3H	B	1096	20	1.5083%	M 5620-404-000-078
4A	A	960	20	1.5083%	M 5620-404-000-079
4B	A	960	20	1.5083%	M 5620-404-000-080
4C	B	1096	20	1.5083%	M 5620-404-000-081
4D	B	1096	20	1.5083%	M 5620-404-000-082
4E	A	960	20	1.5083%	M 5620-404-000-083
4F	A	960	20	1.5083%	M 5620-404-000-084
4G	B	1096	20	1.5083%	M 5620-404-000-085
4H	B	1096	20	1.5083%	M 5620-404-000-086

<u>Unit or Garage Unit No.</u>	<u>Unit Type</u>	<u>Approximate Square Footage*</u>	<u>Par Value</u>	<u>Percentage Interest In Common Areas**</u>	<u>Auditor's Parcel #</u>
5A	A	960	20	1.5083%	M 5620-404-000-087
5B	A	960	20	1.5083%	M 5620-404-000-088
5C	B	1096	20	1.5083%	M 5620-404-000-089
5D	B	1096	20	1.5083%	M 5620-404-000-090
5E	A	960	20	1.5083%	M 5620-404-000-091
5F	A	960	20	1.5083%	M 5620-404-000-092
5G	B	1096	20	1.5083%	M 5620-404-000-093
5H	B	1096	20	1.5083%	M 5620-404-000-094
6A	A	960	20	1.5083%	M 5620-404-000-095
6B	A	960	20	1.5083%	M 5620-404-000-096
6C	B	1096	20	1.5083%	M 5620-404-000-097
6D	B	1096	20	1.5083%	M 5620-404-000-098
6E	A	960	20	1.5083%	M 5620-404-000-099
6F	A	960	20	1.5083%	M 5620-404-000-100
6G	B	1096	20	1.5083%	M 5620-404-000-101
6H	B	1096	20	1.5083%	M 5620-404-000-102
7A	A	960	20	1.5083%	
7B	A	960	20	1.5083%	
7C	B	1096	20	1.5083%	
7D	B	1096	20	1.5083%	
7E	A	960	20	1.5083%	
7F	A	960	20	1.5083%	
7G	B	1096	20	1.5083%	
7H	B	1096	20	1.5083%	
8A	A	960	20	1.5083%	
8B	A	960	20	1.5083%	
8C	B	1096	20	1.5083%	
8D	B	1096	20	1.5083%	
8E	A	960	20	1.5083%	
8F	A	960	20	1.5083%	
8G	B	1096	20	1.5083%	
8H	B	1096	20	1.5083%	
G1A	Garage Unit	N/A	1	.07541%	M 5620-404-000-103
G1B	Garage Unit	N/A	1	.07541%	M 5620-404-000-104
G1C	Garage Unit	N/A	1	.07541%	M 5620-404-000-105
G1D	Garage Unit	N/A	1	.07541%	M 5620-404-000-106
G1E	Garage Unit	N/A	1	.07541%	M 5620-404-000-107
G1F	Garage Unit	N/A	1	.07541%	M 5620-404-000-108

<u>Unit or</u> <u>Garage</u> <u>Unit No.</u>	<u>Unit Type</u>	<u>Approximate</u> <u>Square Footage*</u>	<u>Par</u> <u>Value</u>	<u>Percentage Interest</u> <u>In Common Areas**</u>	<u>Auditor's</u> <u>Parcel #</u>
G2A	Garage Unit	N/A	1	.07541%	M 5620-404-000-109
G2B	Garage Unit	N/A	1	.07541%	M 5620-404-000-110
G2C	Garage Unit	N/A	1	.07541%	M 5620-404-000-111
G2D	Garage Unit	N/A	1	.07541%	M 5620-404-000-112
G2E	Garage Unit	N/A	1	.07541%	M 5620-404-000-113
G2F	Garage Unit	N/A	1	.07541%	M 5620-404-000-114
G3A	Garage Unit	N/A	1	.07541%	M 5620-404-000-115
G3B	Garage Unit	N/A	1	.07541%	M 5620-404-000-116
G3C	Garage Unit	N/A	1	.07541%	M 5620-404-000-117
G3D	Garage Unit	N/A	1	.07541%	M 5620-404-000-118
G3E	Garage Unit	N/A	1	.07541%	M 5620-404-000-119
G3F	Garage Unit	N/A	1	.07541%	M 5620-404-000-120
G4A	Garage Unit	N/A	1	.07541%	M 5620-404-000-121
G4B	Garage Unit	N/A	1	.07541%	M 5620-404-000-122
G4C	Garage Unit	N/A	1	.07541%	M 5620-404-000-123
G4D	Garage Unit	N/A	1	.07541%	M 5620-404-000-124
G4E	Garage Unit	N/A	1	.07541%	M 5620-404-000-125
G4F	Garage Unit	N/A	1	.07541%	M 5620-404-000-126
G5A	Garage Unit	N/A	1	.07541%	M 5620-404-000-127
G5B	Garage Unit	N/A	1	.07541%	M 5620-404-000-128
G5C	Garage Unit	N/A	1	.07541%	M 5620-404-000-129
G5D	Garage Unit	N/A	1	.07541%	M 5620-404-000-130
G5E	Garage Unit	N/A	1	.07541%	M 5620-404-000-131
G5F	Garage Unit	N/A	1	.07541%	M 5620-404-000-132
G6A	Garage Unit	N/A	1	.07541%	M 5620-404-000-133
G6B	Garage Unit	N/A	1	.07541%	M 5620-404-000-134
G6C	Garage Unit	N/A	1	.07541%	M 5620-404-000-135
G6D	Garage Unit	N/A	1	.07541%	M 5620-404-000-136

<u>Unit or Garage Unit No.</u>	<u>Unit Type</u>	<u>Approximate Square Footage*</u>	<u>Par Value</u>	<u>Percentage Interest In Common Areas**</u>	<u>Auditor's Parcel #</u>
G7A	Garage Unit	N/A	1	.07541%	
G7B	Garage Unit	N/A	1	.07541%	
G7C	Garage Unit	N/A	1	.07541%	
G7D	Garage Unit	N/A	1	.07541%	
G7E	Garage Unit	N/A	1	.07541%	
G7F	Garage Unit	N/A	1	.07541%	
G8A	Garage Unit	N/A	1	.07541%	
G8B	Garage Unit	N/A	1	.07541%	
G8C	Garage Unit	N/A	1	.07541%	
G8D	Garage Unit	N/A	1	.07541%	
G8E	Garage Unit	N/A	1	.07541%	
G8F	Garage Unit	N/A	1	.07541%	
TOTAL			<u>1326</u>	<u>100%***</u>	

\*The actual square footage may be adjusted in accordance with field measurements made once the units are completed. The above areas have been calculated without reference to the inclusion of any garages.

\*\*Pursuant to Section 2.07 of the Declaration, said percentage interests for each Unit and for each Garage Unit were calculated as follows:

$$\frac{\text{Par Value of Unit}}{\text{Total of Par Values for all Units and Garage Units in Condominium}} = \frac{20}{1326} = 1.5083 \% \text{ (rounded)}$$

$$\frac{\text{Par Value of Garage Unit}}{\text{Total of Par Values for all Units and Garage Units in Condominium}} = \frac{1}{1326} = .07541 \% \text{ (rounded)}$$

\*\*\*Solely for the purpose of conforming with the legal requirement that the total of all interests must equal exactly 100%, the Declarant reserves the right to adjust the percentage interest of one (1) Unit, in a de minimus amount, to the extent necessary to assure that the total of all interests equal 100%. By their acceptance of a deed to a Unit, all Unit Owners agree to the foregoing; provided, however, that the relative voting power and liability for assessments and expenses shall continue to be equal for all Unit Owners.

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**EXHIBIT D**

See drawings as filed in the plat records of the Butler County, Ohio Recorder's Office, as amended from time to time, which are incorporated herein by this reference as if actually attached to this Amendment to Declaration.