

Return to: Weissman, Nowack, Curry & Zaleon, P.C.
Two Midtown Plaza, 15th Floor
1349 W. Peachtree Street, NE
Atlanta, Georgia 30309
ATTN: Linda B. Curry

STATE OF GEORGIA
COUNTY OF FULTON

RE-RECORDING to CORRECT PAGE number

CROSS REFERENCE

THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR THE PONCE CONDOMINIUM

WHEREAS, Killian/Wilkinson, a Georgia partnership, recorded a Declaration of Condominium for The Ponce Condominium, on September 6, 1982, in Deed Book 8237, Page 126, et seq., Fulton County, Georgia Records (hereinafter referred to as the "Original Declaration"); and

WHEREAS, on October 16, 1995, the membership of The Ponce Condominium Association, Inc. amended and restated the Original Declaration (the Original Declaration, as so amended and restated, is hereinafter referred to as the "Declaration") which Declaration was recorded on October 17, 1995 in Deed Book 20127, Page 01, et seq., Fulton County, Georgia records; and

WHEREAS, the First Amendment to the Declaration was recorded on April 23, 1996 in Deed Book 20867, Page 308, et seq., Fulton County, Georgia records; and

WHEREAS, the Second Amendment to the Declaration was recorded on June 12, 1996 in Deed Book 21058, Page 97, et seq., Fulton County, Georgia records; and

WHEREAS, pursuant to Paragraph 15(h) of the Declaration the Association can assign parking spaces in the parking garage on the Condominium as limited common elements by filing an amendment to the Declaration pursuant to the terms of O.C.G.A. § 44-3-82; and

WHEREAS, the Association now desires to assign the parking spaces; and

WHEREAS, as permitted by Paragraph 15(b) of the Declaration and Section 44-3-91 of the Georgia Condominium Act this Amendment relocates the boundaries of certain Units of The Ponce Condominium, all of which Units are owned by Ponce Commercial Corp., which has requested the boundary relocation, set forth in this Amendment and in the amended Plans being filed simultaneously with this Amendment;

WHEREAS, as permitted by Paragraph 6(b) of the Declaration and Section 44-3-82(b) of the Georgia Condominium Act, this Amendment reassigns certain limited common elements, all of which Units are owned by Ponce Commercial Corp., which has requested the reassignment;

WHEREAS, Ponce Commercial Corp. joins in the consent and execution of this Amendment;

WHEREAS, pursuant to Paragraph 24 thereof, the Declaration may be amended by the affirmative vote, written consent or combination of affirmative vote and written consent of owners of units to which at least two-thirds (2/3) of the votes in The Ponce Condominium Association, Inc. ("Association") pertain; and

WHEREAS, members of the Association to which at least two-thirds (2/3) of the total votes in the Association pertain desire to amend the Declaration and have approved this amendment to the Declaration; and

WHEREAS, this amendment does not alter, modify, change or rescind any right, title, interest or privilege held by any mortgage holder of any Unit; provided, however, in the event a court of competent jurisdiction determines that this amendment does alter, modify, change or rescind any right, title, interest or privilege held by any such mortgage holder without such mortgage holder's consent in writing to this amendment, then this amendment shall not be binding on the mortgage holder so involved, unless such mortgage-holder consents to this amendment;

Doc#00152989 Rec#00071403
GEORGIA, FULTON COUNTY
Filed and Recorded
12/23/1996 08:30A
JUANITA HICKS
Clerk, Superior Ct

Cross Reference: Deed Book 20127

Page 01

Deed Book 20867

Page 308

Deed Book 21058

Page 97

CROSS REFERENCE

Doc#00210646 Rec#00101063
GEORGIA, FULTON COUNTY
Filed and Recorded
04/23/1997 08:30A
JUANITA HICKS
Clerk, Superior Ct

BK 22502 PG 132

BK 21971 PG 150

and if such consent is not forthcoming, then the provisions of the Original Declaration prior to this amendment shall control with respect to the affected mortgage holder;

NOW, THEREFORE, the Declaration is hereby amended as follows:

I.

Association does hereby assign the parking spaces as indicated on the diagram marked Exhibit "A", attached hereto and recorded herewith, as follows:

(a) The designation of the following parking spaces pursuant to the diagram marked Exhibit "A" is for reference purposes only and does not indicate or guarantee the dimensions or exact location of the parking space. The dimensions of the parking space shall at all times be subject to change. In the event of any conflict between the parking spaces as they are shown on Exhibit "A" and as they may be actually laid out on the parking garage, the latter shall control.

(b) The parking space shall be assigned as follows as a limited common element appertaining to the designated unit as shown on Exhibit "A" attached hereto and incorporated herein:

PARKING - GROUND		PARKING - FIRST LEVEL		PARKING - SECOND LEVEL	
<u>Space No.</u>	<u>Unit</u>	<u>Space No.</u>	<u>Unit</u>	<u>Space No.</u>	<u>Unit</u>
1	102	26	1007	51	1004
4	706E	27	301	52	704
5	300A	28	1010	53	703
6	300A	29	1105	54	1202
7	806E	30	804	55	201
8	806E	31	1008	56	300B
9	602E	32	1006	57	200
10	602E	33	1001	58	202
11	902E	34	1002	59	203
12	902E	35	302	60	503
13	506	36	401	61	1104
14	606E	37	906E	62	803
15	606E	38	906E	63	404
16	501	39	1109	64	303
17	406E	40	402	65	504
18	406E	41	1102	66	507
19	1200	42	904	67	601
20	1201	43	1103	68	604
21	1106	44	1101	69	403
22	1107	45	1003	70	607
		46	505	71	701
		47	1108	72	702
		48	902E	73	801
		49	1009	74	807
		50	1005	75	707
				76	907
				77	802
				78	204
				79	204

(c) Notwithstanding the assignment of a parking space as a limited common element, the Association shall maintain, repair and replace such parking spaces except that the unit owner shall be responsible for the routine cleaning of his/her assigned parking spaces(s). **BK 22502 PG 133**

2.

The first, second, third, and fourth paragraphs under the heading "**Location and Description of Units**" of Exhibit "B" are deleted in their entirety and the following inserted in lieu thereof:

Commercial Unit 1. This Unit is located on southwestern side of the building on the Basement Level and contains approximately 1,938 square feet.

Commercial Unit 100. This Unit is located in the southwestern portion of Floor One of the building and contains approximately 1,989 square feet. The western boundary of this Unit extends past the current existing exterior wall of the building out to the center line of exterior columns of the building.

Commercial Unit 101. This Unit is located on the southwestern side of the building on Floor One and in the area of the Basement directly below and contains approximately 1,844 square feet.

Commercial Unit 102. This Unit consists of the easterly half of Floor One of the building. This Unit contains approximately 3,883 square feet.

3.

That portion of Exhibit "B" of the Declaration under the heading "**Percentage Allocation of Interest in Common Elements, Voting Rights and Liability for Common Expenses**" is hereby amended as follows:

The Percentage Allocation of Interest in Common Elements, Voting Rights and Liability for Common Expenses for Unit 1 is changed from 4.63 to 1.30, for Unit 100 is changed from 4.25 to 2.55, for Unit 101 is changed from 1.80 to 2.30, and for Unit 102 is changed from 2.17 to 6.70.

4.

The portion of Exhibit "B" of the Declaration under the heading "**Description of Limited Common Elements**" is hereby amended to reassign the limited common element front porch areas due to relocation of boundaries of the commercial units and basement level rooftop area and to delete the reference to a central water heater so that it reads as follows:

The Limited Common Elements are all Common Elements except the following: the front steps of the building on the first floor by the main entrance, the exterior facade and surfaces of the building, all structural supports, columns and load bearing walls and structures, the roof of the building, the basement area and its rooftop area, Elevators No. 1 and No. 3, the rear stairwell adjacent to Elevator No. 3 as well as the landing area for such stairwell located on the first floor, all concrete and paving areas surrounding the building and the parking garage. The front porch area adjacent to Unit 101 located on the front portion of the building which faces Ponce de Leon on Floor One shall be a Limited Common Element appurtenant to Unit 101. The front porch area adjacent to Unit 102 located on the front portion of the building which faces Ponce de Leon on Floor One shall be a Limited Common Element appurtenant to Unit 102. The roof above a portion of Unit 100 shall be a Limited Common Element appurtenant to Unit 100. All other Limited Common Elements are appurtenant to the Residential Units.

5.

BK 22502 PG 134

Due to the Amendments to Exhibit "B" of the Declaration in this Third Amendment, Exhibit "B" is amended and replaced with a new Exhibit "B" which is attached and incorporated into this Third Amendment.

BK 21971 PG 152

Except as amended herein, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned officers of The Ponce Condominium Association, Inc. hereby certify that the above amendment to the Declaration was duly adopted by the required majority of the Association.

THE PONCE CONDOMINIUM ASSOCIATION, INC.

By: [Signature] (Seal)
Chairman

Attest: [Signature] (Seal)
Secretary

[CORPORATE SEAL]

Sworn to and subscribed to
before me this 12 day of
December, 1996.

Patricia J. Clark
Witness
Bethany J. Willis
Notary Public

Notary Public, Cherokee County, Georgia
My Commission Expires November 16, 1998

N.P.
SEAL

CORP.
SEAL

IN WITNESS WHEREOF, as the Owner of certain Units whose boundaries are being relocated and limited common elements are being reassigned Ponce Commercial Corp., a Georgia corporation hereby consents to this Amendment.

PONCE COMMERCIAL CORP.

By: [Signature] (Seal)
Jay T. Clark, President

[CORPORATE SEAL]

CORP.
SEAL

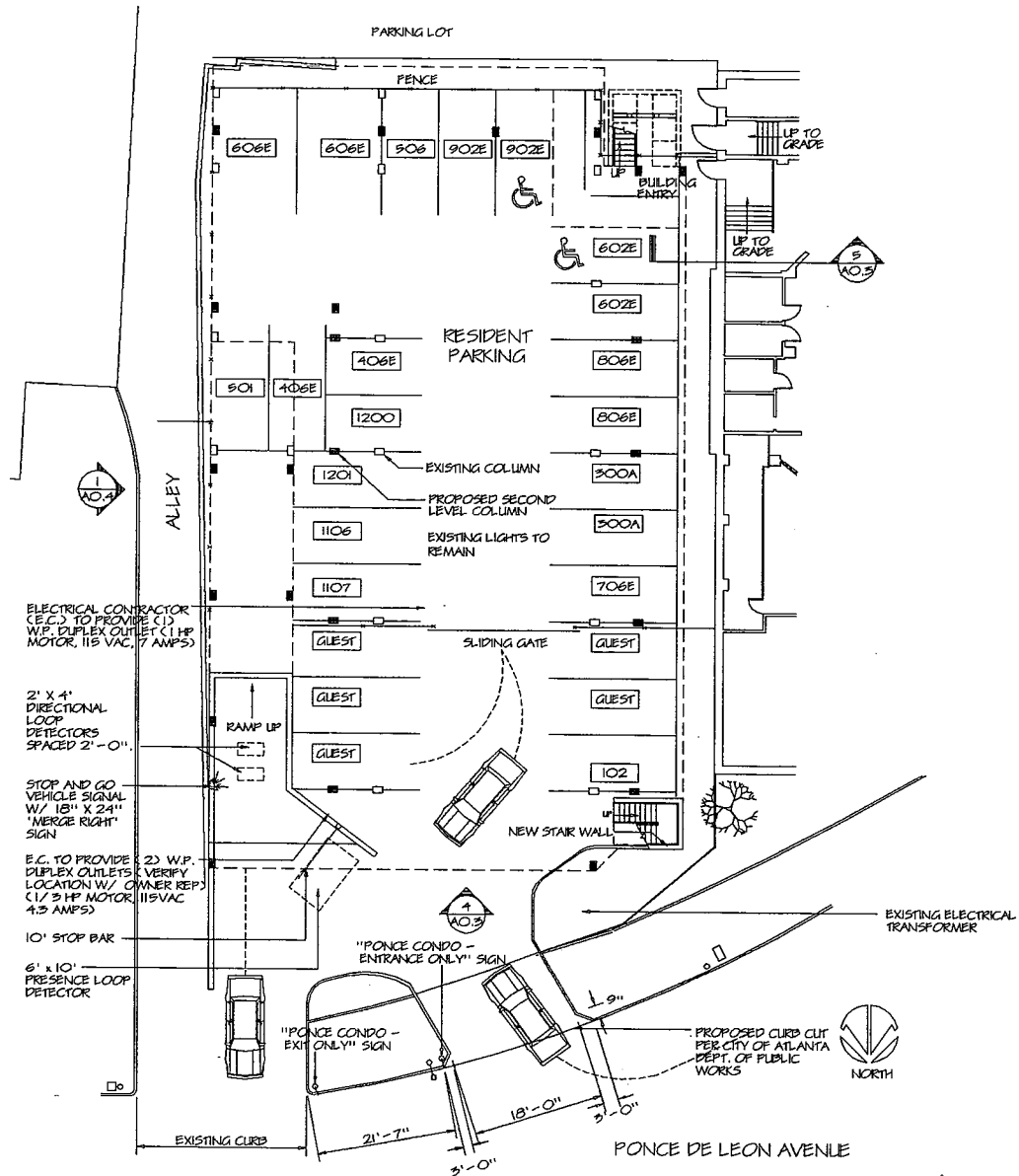
Sworn to and subscribed to before me
this 12 day of December, 1996.

Patricia J. Clark
Witness
Bethany J. Willis
Notary Public

Notary Public, Cherokee County, Georgia
My Commission Expires November 16, 1998

N.P.
SEAL

BK 22502 PG 135



BK 22502 PG 136

BK 21971 PG 153

PIMSLER • HOSS • ARCHITECTS

RANDY E. PIMSLER, A.I.A.
W. ALLEN HOSS, A.I.A.
501 PEACHTREE STREET, N.E.
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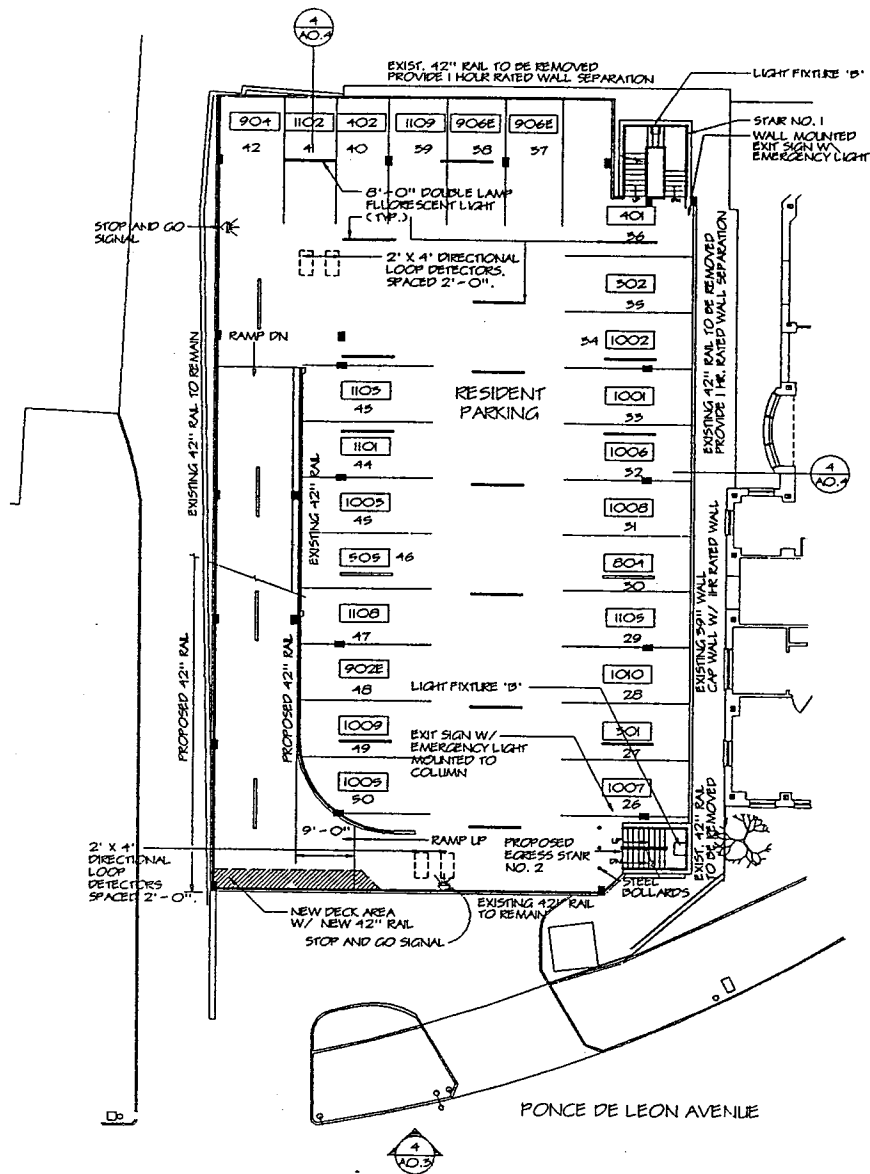
PONCE
CONDOMINIUM
75 PONCE DE LEON AVENUE
ATLANTA GEORGIA

GROUND LEVEL PARKING
SCALE: 1"=30'-0"

JOB NO. 95166	
NO.	REVISIONS

01

02 OF 04



BK 22502 PG 137

BK 21971 PG 154

PIMSLER • HOSS • ARCHITECTS

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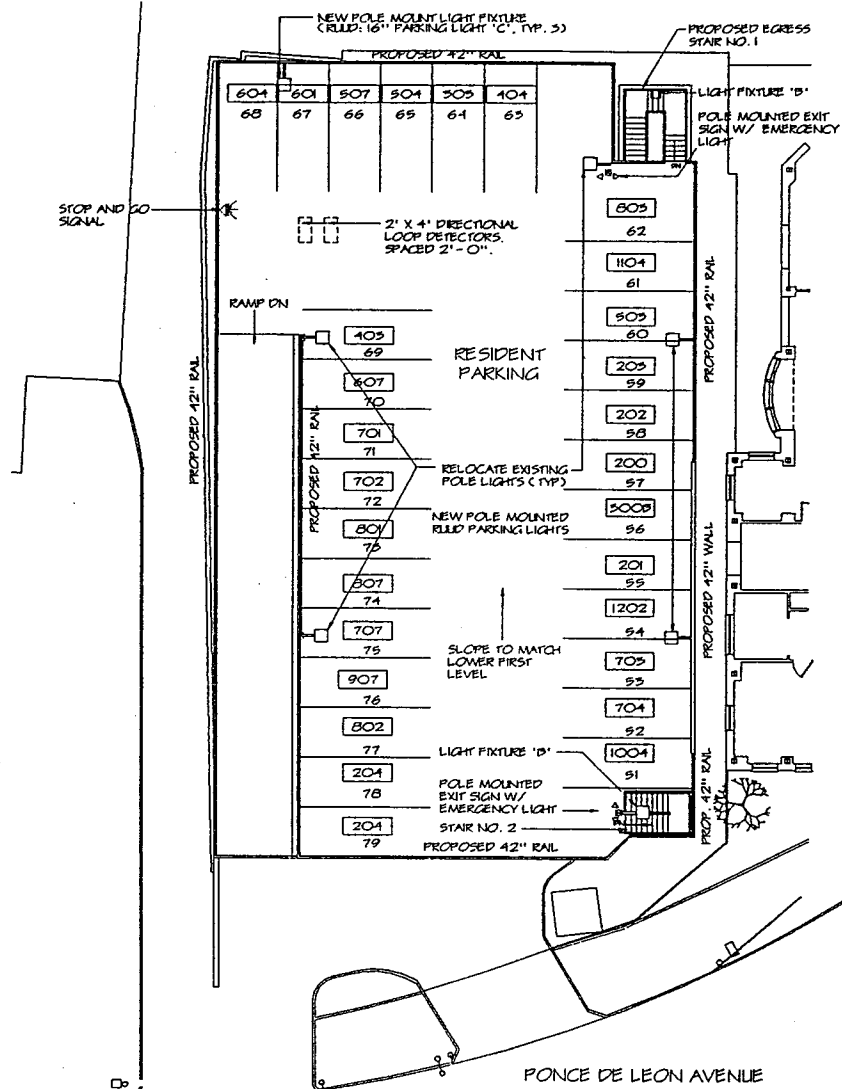
PONCE
CONDOMINIUM
75 PONCE DE LEON AVENUE
ATLANTA GEORGIA

FIRST LEVEL PARKING
SCALE: 1"=30'-0"

JOB NO. 95166	
NO.	REVISIONS

02

03 of 04



BK 22502 PG 138

BK 21971 PG 155

PIMSLER • HOSS • ARCHITECTS

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PONCE
CONDOMINIUM
75 PONCE DE LEON AVENUE
ATLANTA GEORGIA

SECOND LEVEL PARKING
SCALE: 1"=30'-0"

JOB NO. 95166
NO. REVISIONS

03

EXHIBIT "B"
TO
AMENDED AND RESTATED DECLARATION
OF CONDOMINIUM FOR
THE PONCE CONDOMINIUM

Comparison of Unit Numbers

Former Residential Unit 101 under the Original Declaration has been redesignated Commercial Unit 101.

Former Units 200 and 201 under the Original Declaration have been subdivided into Units 200, 201, 202, 203, and 204.

Former Unit 300 under the Original Declaration has been subdivided into Units 300A and 300B.

Former Unit 301 under the Original Declaration has been subdivided into Units 301A and 301B, which are now Units 301 and 302 respectively.

Former Unit 302 under the Original Declaration is now Unit 303.

Former Units 400 and 402 under the Original Declaration have been subdivided into Units 403, 404, 406E and 407.

Former Unit 401 under the Original Declaration has been subdivided into units 401 and 402.

Former Units 500 and 502 under the Original Declaration have been subdivided into Units 503, 504, 505, 506 and 507.

Former Units 600, 601 and 602 under the Original Declaration have been subdivided into Units 601, 602E, 604, 606E and 607.

Former Units 700 and 701 under the Original Declaration have been subdivided into Units 701, 702, 703, 704, 706E and 707.

Former Units 800, 801 and 802 under the Original Declaration have been subdivided into Units 801, 802, 803, 804, 806E and 807.

Former Units 900, 901 and 902 under the Original Declaration have been subdivided into Units 902E, 904, 906E and 907.

Location and Description of the Units

Commercial Unit 1. This Unit is located on southwestern side of the building on the Basement Level and contains approximately 1,938 square feet.

BK 22502 PG 139

Commercial Unit 100. This Unit is located in the southwestern portion of Floor One of the building and contains approximately 1,989 square feet. The western boundary of this Unit extends past the current existing exterior wall of the building out to the center line of exterior columns of the building.

Commercial Unit 101. This Unit is located on the southwestern side of the building on Floor One and contains approximately 1,844 square feet.

BK 21971 PG 156

Commercial Unit 102. This Unit consists of the easterly half of Floor One of the building. This Unit contains approximately 3,883 square feet.

Residential Units 201, 601, 701, and 801. These Units are located on the north side of the building off the Large Foyer Space on Floors Two, Six, Seven, and Eight, respectively. Unit 201 contains approximately 991 square feet. Unit 601 contains approximately 1,030 square feet. Units 701 and 801 each contain approximately 979 square feet.

Residential Units 202, 602E and 902E. Units 202, 203 and 602E are located on the northeastern and western sides of the building on Floors Two and Six, respectively. Unit 902E is located on the northern, northeastern and western sides of the building on Floor Nine. Unit 202 contains approximately 1,515 square feet. Unit 602E contains approximately 2,490 square feet. Unit 902E contains approximately 3,469 square feet.

Residential Units 702 and 802. These Units are located on the northeastern side of the building on Floors Seven and Eight respectively. Unit 702 contains approximately 1,071 square feet. Unit 802 contains approximately 1,170 square feet.

Residential Units 203, 403, 503, 703, and 803. These Units are located on the western side of the building on Floors Two, Four, Five, Seven, and Eight respectively. Unit 203 contains approximately 877 square feet. Unit 403 contains approximately 1,310 square feet. Units 503, 703, and 803 each contain approximately 1,345 square feet.

Residential Units 204, 404, 504, 604, 704, 804, and 904. These Units are located on the southern side of the building on Floors Two, Four, Five, Six, Seven, Eight, and Nine respectively. Unit 204 contains approximately 1,495 square feet. Units 404, 504, 604, 704, 804, and 904 each contain approximately 1,136 square feet.

Residential Units 200, 406E, 606E, 706E, 806E, and 906E. These Units are located on the southwestern corner and western side of the building on Floors Two, Four, Six, Seven, Eight, and Nine respectively. Unit 200 contains approximately 1,736 square feet. Units 406E, 606E, 706E, 806E, and 906E each contain approximately 1,387 square feet.

Residential Units 407, 507, 607, 707, 807, and 907. These Units are located on the western side of the building on Floors Four, Five, Six, Seven, Eight, and Nine respectively. Each of these Units contains approximately 686 square feet.

Residential Units 300A and 300B. These Units are located on the southwestern one-half of Floor Three of the building. Unit 300A contains approximately 2,814 square feet. Unit 300B contains approximately 686 square feet.

Residential Unit 301. This Unit is located on the north corner of the building on Floor Three and contains approximately 997 square feet.

Residential Unit 302. This Unit is located on the northeast corner of the building on Floor Three and contains approximately 1,081 square feet.

Residential Unit 303. This Unit is located on the eastern side of the building on Floor Three. The Original Declaration stated that this Unit (formerly known as Unit 302) contained approximately 1,662 square feet; however, it has been determined that this Unit contains approximately 1,396 square feet.

Residential Unit 401. This Unit is located on the north frontage of the building on Ponce de Leon Avenue on Floor Four and contains approximately 997 square feet.

BK 22502 PG 140

Residential Unit 402. This Unit is located at the northeastern corner of the building on Floor 4 and contains approximately 1,081 square feet.

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Residential Unit 501. This Unit is located on the north corner of the building on Floor Five and contains approximately 2,078 square feet.

NOTE: There is no Unit 502.

Residential Unit 505. This Unit is located on the southwestern corner of the building on Floor Five and contains approximately 687 square feet.

Residential Unit 506. This Unit is located on the western side of the building on Floor Five and contains approximately 625 square feet.

Residential Units 1001 and 1101. These Units are located in the northeasterly portion of the building fronting Ponce de Leon Avenue on Floors Ten and Eleven respectively. Each of these Units contains approximately 784 square feet.

Residential Units 1002 and 1102. These Units are located in the northeasterly corner of the building on Floors Ten and Eleven respectively. Each of these Units contains approximately 1,025 square feet.

Residential Units 1003 and 1103. These Units are centrally located on the east side of the building on Floors Ten and Eleven respectively. Each of these Units contains approximately 825 square feet.

Residential Units 1004 and 1104. These Units are located on southeastern corner of the building facing east on Floors Ten and Eleven respectively. The Original Declaration stated that these Units contained approximately 606 square feet; however, it has been determined that each of these Units contains approximately 582 square feet.

Residential Units 1005 and 1105. These Units are located at the southeasterly corner of the building facing south on Floors Ten and Eleven respectively. Each of these Units contains approximately 511 square feet.

Residential Unit 1006. This Unit is centrally located on the south side of the building on Floor Ten and contains approximately 628 square feet.

Residential Unit 1007. This Unit is located at the southwest corner of the building on Floor Ten and contains approximately 907 square feet.

Residential Units 1008. This Unit is located on the southwestern frontage of the building on Ponce de Leon Avenue on Floor Ten and contains approximately 599 square feet.

Residential Units 1009 and 1109. These Units are centrally located on the portion of the building fronting on Ponce de Leon Avenue on Floors Ten and Eleven respectively. Each of these Units contains approximately 545 square feet.

Residential Unit 1010. This Unit is located on the interior core of the building adjacent to Elevator No. 1 on Floor Ten and contains approximately 452 square feet.

Residential Unit 1106. This Unit is centrally located on the southern side of the building on Floor Eleven. The Original Declaration stated that this Unit contained approximately 628 square feet; however, it has been determined that this Unit contains approximately 551 square feet.

Residential Unit 1107. This Unit is located on the southwest corner of the building on Floor Eleven. The Original Declaration stated that this Unit contained approximately 907 square feet; however, it has been determined that this Unit contains approximately 707 square feet.

BK 22502 PG 141

Residential Unit 1108. This Unit is located on the southwestern frontage of the building on Ponce de Leon Avenue on Floor Eleven. The Original Declaration stated that this Unit contained approximately 599 square feet; however, it has been determined that this Unit contains approximately 624 square feet.

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Residential Unit 1200. This Unit is located on the southwest corner of the building on the Rooftop Level and contains approximately 749 square feet.

Residential Unit 1201. This Unit is located at the northeast corner of the building on the Rooftop Level and contains approximately 790 square feet.

Residential Unit 1202. This Unit is located on the southeastern corner of the building on the Rooftop Level. The Original Declaration stated that this contained 1,046 square feet; however, it has been determined that this Unit contains approximately 1,179 square feet.

Percentage Allocation of Interest in Common Elements, Voting Rights and Liability for Common Expenses

<u>Unit Number</u>	<u>Percentage Allocation of Interest in Common Elements, Voting Rights and Liability for Common Expenses</u>
1	1.30
100	2.55
101	2.30
102	6.70
200	2.25
201	1.29
202	1.97
203	1.14
204	1.94
300A	3.36
300B	0.84
301	1.17
302	1.27
303	1.95
401	1.17
402	1.27
403	1.85
404	1.56
406E	1.80
407	0.94
501	2.44
503	1.97
504	1.53
505	0.92
506	0.83
507	0.90
601	1.27
602E	3.24
604	1.48
606E	1.71
607	0.89
701	1.26
702	1.50
703	1.74
704	1.47
706E	1.70
707	0.88
801	1.27

802	1.50
803	1.74
804	1.48
806E	1.71
807	0.89
902E	4.51
904	1.48
906E	1.71
907	0.89
1001	0.91
1002	1.19
1003	0.96
1004	0.70
1005	0.59
1006	0.73
1007	1.06
1008	0.70
1009	0.63
1010	0.52
1101	0.91
1102	1.19
1103	0.96
1104	0.70
1105	0.59
1106	0.73
1107	1.06
1108	0.70
1109	0.63
1200	0.87
1201	0.92
1202	<u>1.22</u>
	100.00

Description of Limited Common Elements

The Limited Common Elements are all Common Elements except the following: the front steps of the building on the first floor by the main entrance, the exterior facade and surfaces of the building, all structural supports, columns and load bearing walls and structures, the roof of the building, the basement area and its rooftop area, Elevators No. 1 and No. 3, the rear stairwell adjacent to Elevator No. 3 as well as the landing area for such stairwell located on the first floor, all concrete and paving areas surrounding the building and the parking garage. The front porch area adjacent to Unit 101 located on the front portion of the building which faces Ponce de Leon on Floor One shall be a Limited Common Element appurtenant to Unit 101. The front porch area adjacent to Unit 102 located on the front portion of the building which faces Ponce de Leon on Floor One shall be a Limited Common Element appurtenant to Unit 102. The roof above a portion of Unit 100 shall be a Limited Common Element appurtenant to Unit 100. All other Limited Common Elements are appurtenant to the Residential Units.

802	1.50
803	1.74
804	1.48
806E	1.71
807	0.89
902E	4.51
904	1.48
906E	1.71
907	0.89
1001	0.91
1002	1.19
1003	0.96
1004	0.70
1005	0.59
1006	0.73
1007	1.06
1008	0.70
1009	0.63
1010	0.52
1101	0.91
1102	1.19
1103	0.96
1104	0.70
1105	0.59
1106	0.73
1107	1.06
1108	0.70
1109	0.63
1200	0.87
1201	0.92
1202	<u>1.22</u>
	100.00

Description of Limited Common Elements

The Limited Common Elements are all Common Elements except the following: the front steps of the building on the first floor by the main entrance, the exterior facade and surfaces of the building, all structural supports, columns and load bearing walls and structures, the roof of the building, the basement area and its rooftop area, Elevators No. 1 and No. 3, the rear stairwell adjacent to Elevator No. 3 as well as the landing area for such stairwell located on the first floor, all concrete and paving areas surrounding the building and the parking garage. The front porch area adjacent to Unit 101 located on the front portion of the building which faces Ponce de Leon on Floor One shall be a Limited Common Element appurtenant to Unit 101. The front porch area adjacent to Unit 102 located on the front portion of the building which faces Ponce de Leon on Floor One shall be a Limited Common Element appurtenant to Unit 102. The roof above a portion of Unit 100 shall be a Limited Common Element appurtenant to Unit 100. All other Limited Common Elements are appurtenant to the Residential Units.

BK 22502 PG 144

FAUSER/LCURREY/THEPONCEDEC-AMEN.#3C

BK 21971 PG 161