

**CONFIRMATORY  
FIRST AMENDMENT TO DECLARATION  
SOUTH MARKET CENTER CONDOMINIUM  
(An Expanding Non-Residential Condominium)**

**THIS CONFIRMATORY FIRST AMENDMENT TO CONDOMINIUM DECLARATION ("First Amendment")** is made this 30 day of December 2005, by Carroll Creek Site B, LLC, a Maryland limited liability limited partnership, (collectively hereinafter referred to as the "**Declarant**").

**WHEREAS**, Declarant did execute and record a certain Condominium Declaration dated November 16, 2005, and recorded in Liber 5698, folio 241, among the Land Records of Frederick County, Maryland (the "**Declaration**"), which Declaration is by this reference incorporated herein and made a part hereof; and

**WHEREAS**, simultaneously with the recordation of the Declaration, Declarant did record a certain condominium plat, consisting of six (6) sheets, which were recorded in Plat Book 80, pages 44-49, among the Plat Records of Frederick County, Maryland (the "**Condominium Plat**"); and

**WHEREAS**, the recordation of the Declaration and the Condominium Plat created the South Market Center Condominium (the "**Condominium**"), which Declaration and Condominium Plat provided for the expansion of the Condominium by the creation of "Parking Space Units" and "Parking Space Common Elements" to be located and/or constructed by the Declarant thereon within the area designated as "Future Expansion Area-Parking Space Units", as shown on the Condominium Plat; and

**WHEREAS**, to facilitate the creation of the Parking Space Units and Parking Space Common Elements to be located within the aforesaid Future Expansion Area – Parking Space Units, Declarant expanded the Condominium by establishing and creating within the area designated "Future Expansion Area – Parking Space Units," those twenty five (25) Parking Space Units and Parking Space Common Elements as more particularly described on a plat entitled "Amended Condominium Plat, 50 Carroll Creek Way, Creekside Site B" which plat is recorded at Plat Book 80 pages 98-103 among the Plat Records of Frederick County, Maryland ("Amended Condominium Plat").

**WHEREAS**, the Declarant caused a First Amendment to Declaration to be recorded at Liber 5765, folio 410 among the Land Records of Frederick County, Maryland memorializing said expansion, to which said First Amendment Declarant intended to attach a "Revised Exhibit D" setting forth the adjusted Percentages and Voting Rights appurtenant to each of the Condominium Units upon the recordation of said First Amendment.

**WHEREAS**, the First Amendment was recorded without the appropriate attachment.

**NOW, THEREFORE, THIS CONFIRMATORY FIRST AMENDMENT, WITNESSETH:** That the Declarant hereby amends the Declaration and the Condominium Plat as follows:

1. Declarant hereby submits and adds "Future Expansion Area - Parking Space Units", containing 12,745 square feet to the Condominium as part of the "Property" and hereby and declares that it shall be held, conveyed, divided or subdivided, leased, rented and occupied, improved, hypothecated and/or encumbered subject to the Act and the Declaration. As of the date of this First Amendment (a) the Parking Space Units created hereby shall include only those twenty five (25) Parking Space Units each of which is designated by one or more numbers, letters or combinations thereof (i.e. "PS-RA", "PS-340A," etc.) shown on the Amended Condominium Plat, and (b) the Parking Space Common Elements shall consist of all of the remaining areas other than the Parking Space Units hereby created and contained within the boundaries of the area designated as "Future Expansion Area-Parking Space Units" on the Condominium Plat.

2. By the recordation of this First Amendment, the Association hereby assumes all liability, responsibility and duty for the care, operation and maintenance of the Parking Space Common Elements, and each Parking Space Unit Owner hereby assumes or agrees to assume all liability and duty for the care, operation and maintenance of the respective Parking Space Units, subject, however, to any rights and/or obligations the Association or each Parking Space Unit Owner may have pursuant to the Declaration and the Bylaws. Further, the Association and each Parking Space Unit Owner, on their own behalf, and on behalf of their successors and assigns, hereby agree to indemnify and hold Declarant, its successors and assigns, harmless from any loss, liability or damage (including attorneys' fees and court costs) arising out of or resulting from the failure of the Association or each Parking Space Unit Owner to care for, maintain or properly operate the Parking Space Common Elements or Parking Space Units, as applicable.

3. In accordance with **Article V** and **EXHIBIT D** of the Declaration, upon recordation of this First Amendment, the Percentage Interests and Voting Rights of each of the Unit Owners shall be adjusted in accordance with the formula set forth therein and the **EXHIBIT D** to the Declaration setting forth the relative Percentage Interests and Voting Rights allocated in accordance with the Declaration is hereby deleted and replaced with the "Revised **EXHIBIT D**" attached hereto and incorporated herein.

4. The following provision is added to **Article V-Section 10** of the By Laws of the Association as set forth in **EXHIBIT B** to the Declaration:

**"Individual Policies - Recommendation of Declarant - Notice to Board of Directors.** The owner of any Condominium Unit (including the holder of any mortgage thereon) may obtain additional insurance (including a "Condominium Unit-Owner's Endorsement", or its equivalent, for improvements and betterments to the Condominium Unit made or acquired at the expense of the owner) at his own expense. The Declarant recommends that each owner of a Condominium Unit obtain a plate glass damage policy and a "Business Tenant Policy", or its equivalent, to insure against loss or damage to personal property used or incidental to the occupancy of the Condominium Unit, vandalism or malicious mischief, theft, personal

liability and the like. Such policy should include a "Condominium Unit-Owner's Endorsement" or its equivalent, to cover losses to improvements and betterments to the Condominium Unit. Copies of all such policies shall be filed with the Secretary. The owner of any Condominium Unit shall notify the Board of Directors in writing of any and all improvements and betterments made to the Condominium Unit at the expense of such Unit Owner, the aggregate value of which is in excess of Thirty Thousand Dollars (\$30,000.00)."

5. The introductory and whereas clauses hereinabove accurately set forth the facts recited therein and are by this reference incorporated herein and made a part hereof.

6. In all other respects not specifically modified or amended by this First Amendment, Declarant hereby reaffirms the terms and provisions of the Declaration and the Condominium Plat, all of which shall remain in full force and effect as originally filed.

**IN WITNESS WHEREOF**, the undersigned, being the Declarant named in the Declaration, has executed this First Amendment as of the day and year first written above.

WITNESS:

CARROLL CREEK SITE B, LLC  
a Maryland limited liability limited partnership,  
BY:  
MAIN STREET DEVELOPMENT, LLC  
a Maryland limited liability company  
Member

*[Handwritten signature]*

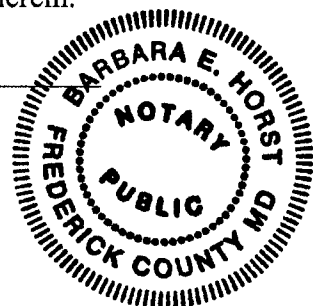
*Bradley Tavel* (SEAL)  
Bradley Tavel, Managing Member

STATE OF MARYLAND, COUNTY OF

I HEREBY CERTIFY that on this 30 day of December 2005, before me, the undersigned officer, personally appeared Bradley Tavel who has been satisfactorily proven to be the person whose name is subscribed to this written instrument, who acknowledged himself to be the Managing Member of Main Street Development, LLC, Member of Carroll Creek Site B, LLC, a Maryland limited liability company, and that he, as such Managing Member being authorized so to do, executed the foregoing instrument for the purposes therein.

*Barbara E. Horst*  
Notary Public

My commission expires: 8/8/09



**CONSENT OF LIENHOLDER**

Craig P. Russell, Trustee, acting on behalf of Frederick County Bank, a Maryland banking corporation, who are respectively the trustees and the beneficiary under an Indemnity Deed of Trust and Security Agreement ("Deed of Trust") dated February 8, 2005 and recorded among the Land Records of Frederick County, Maryland in Liber 5128 at folio 154 et seq., consents to this Confirmatory First Amendment.

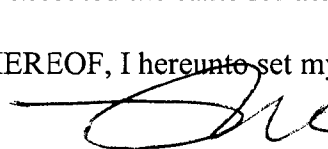
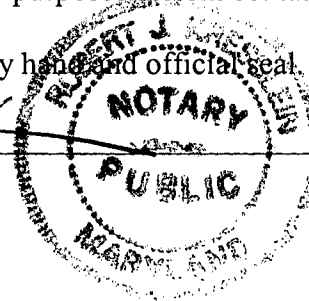
In witness whereof, the Trustee has signed this Consent of Lienholder on December 27, 2005.

  
Craig P. Russell, Trustee

**STATE OF MARYLAND, COUNTY OF FREDERICK**

I HEREBY CERTIFY that on this 27 day of December 2005, before me, a Notary Public in and for the State and County aforesaid, personally appeared Craig P. Russell known to me (or satisfactorily proven) to be the person whose name is subscribed to this Declaration and acknowledged that he executed the same for the purposes therein contained.


IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public 

My Commission Expires: 8-1-09

**ATTORNEY'S CERTIFICATE**

I HEREBY CERTIFY that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that the within instrument was prepared under my supervision.

  
Robert J. Kresslein

**REVISED  
EXHIBIT D  
SOUTH MARKET CENTER  
CONDOMINIUM  
SCHEDULE OF PERCENTAGE INTERESTS AND VOTES  
UNIT NUMBER PERCENTAGE INTEREST AND VOTES**

**PERCENTAGE INTERESTS.**

The Percentage Interests in the Condominium shall be allocated to the Unit Owners as follows: ninety percent (90%) to be divided among all of the Unit Owners of Commercial Units and ten percent (10%) to be divided among all of the Unit Owners of the Parking Space Units.

If the total floor space of all of the Commercial Units in the Condominium is 34,365 square feet, a Percentage Interest shall be allocated to each Commercial Unit and shall be in the proportion that Unit's square feet of floor space in relation to the total floor space of all of the Commercial Units in the Condominium (i.e. 34,365). For example, a Commercial Unit containing 3,781 square feet shall have a Percentage interest of 9.90% ( $3,781/34,365/0.90 = .09902$ )

If the total number of Parking Space Units is 25, a Percentage Interest equal to 0.4% shall be allocated to each Parking Space Unit ( $1/25 \times 0.10 = 0.004$ ).

**VOTING RIGHTS**

Except as otherwise provided in below, the number of votes shall total one hundred (100) at all times. There shall be ninety (90) votes allocated to and among the Unit Owners of the Commercial Units and ten votes allocated to and among the Unit Owners of the Parking Space Units.

If the total floor space of all of the Commercial Units in the Condominium is 34,365 square feet, each Commercial Unit Owner's voting rights shall be allocated to the Commercial Unit and shall be in the proportion that Unit's square feet of floor space in relation to the total floor space of all of the Commercial Units in the Condominium (i.e. 34,365). For example, a Commercial Unit shall have 1 vote for each 381.83 square feet of space with such Commercial Unit ( $381.83/34,635/0.90 \times 100 = 1$ ), and a fractional vote for each additional amount of floor space in excess of the product of 387 times a whole integer, such that a Unit containing 3,781 square feet shall have 9.90 votes ( $3,781/34,365/0.90 \times 100 = 9.90$ )

If the total number of Parking Space Units is 25, each Parking Space Unit Owner's voting rights shall be allocated to the Parking Space Unit and shall be equal to 0.4 votes per Parking Space Unit ( $1/25 \times 0.10$ ).

Until the lapse of Class B Memberships as set forth in **Section (b)** below, the Association shall have two (2) classes of voting memberships with differing voting rights as follows:

Class A. WITH THE EXCEPTION OF THE DECLARANT, every person, corporation, partnership, trust or other legal entity, or any combination thereof, who is a Unit Owner shall be a Class A member of the Association, with the applicable vote for such unit being set forth in this **EXHIBIT D**; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity who holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. Any Unit Owner who leases his condominium unit may, in the lease or other written instrument, assign the voting right appurtenant to that Unit to the lessee, provided that a copy of such instrument is furnished to the Association.

Class B. (a) For each planned Commercial Unit within the Condominium (including those units which the Declarant may have subdivided into more than one (1) unit) the Declarant shall have a Class B membership, and for each Class B membership there shall be attached thereto three (3) votes for each vote otherwise attributable to such Unit. However, the number of Class B votes held by the Declarant shall be decreased accordingly for each new Class A membership created as a result of a transfer of a Commercial Unit to a Unit Owner. Thus, by way of example only, if the Class B member would otherwise be entitled to ninety (90) votes, such member shall be entitled to have a total of 270 votes (90 x 3) before the transfer of a Commercial Unit. Upon the transfer of any unit, then the Class A member shall have the number of votes allocated in accordance with this **EXHIBIT D**, and the votes of the Class B member shall be reduced accordingly. All Class B memberships shall be held by the Declarant, and/or its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by specific assignment from the Declarant.

(b) Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

(i) thirty (30) days following the date on which seventy-five percent (75%) of the *total* percentage interests in the Condominium are held by the Class A members; or

(ii) ten (10) years from the date of recordation of this Declaration; or

(iii) upon the surrender of said Class B memberships by the then holders thereof for cancellation on the books of the Association.

Upon the lapse or surrender of the Class B memberships as provided herein, the Declarant shall thereafter become a Class A Member of the Association as to each and every Condominium Unit in which the Declarant then holds the interest otherwise required for such Class A membership.



**REVISED**  
**"EXHIBIT D"**  
**UNDIVIDED PERCENTAGE INTEREST IN COMMON ELEMENTS, COMMON**  
**EXPENSES, COMMON PROFITS AND VOTING RIGHTS OF**  
**SOUTH MARKET CENTER CONDOMINIUM**

	<u>Square</u> <u>Footage</u>	<u>Percentage</u> <u>Interest**</u>	<u>Class A</u> <u>Vote*</u>	<u>Class B</u> <u>Vote***</u>
<b>FIRST FLOOR</b>				
Unit 1-A	6,728	17.62	17.62	52.86
Unit 1-B	4,666	12.22	12.22	36.66
Unit 1-C	490	1.28	1.28	3.84
<b>SECOND FLOOR</b>				
Unit 210	2,580	6.76	6.76	20.28
Unit 220	1,706	4.47	4.47	13.41
Unit 230	1,089	2.85	2.85	8.55
Unit 240	1,451	3.80	3.80	11.40
Unit 250	1,648	4.32	4.32	12.96
Unit 260	1,681	4.40	4.40	13.20
Unit 270	1,013	2.65	2.65	7.95
<b>THIRD FLOOR</b>				
Unit 310	2,791	7.31	7.31	21.93
Unit 320	1,851	4.85	4.85	14.55
Unit 330	1,439	3.77	3.77	11.31
Unit 335	1,451	3.80	3.80	11.40
Unit 340	3,781	9.90	9.90	29.70
<b>TOTAL COMMERCIAL UNITS</b>	34,365	90.00	90.00	

	Square Footage	Percentage Interest	Class A Votes	Class B Votes
<b>PARKING SPACE UNITS</b>				
<b>PS-RM</b>		0.4	0.4	1.2
<b>PS-260A</b>		0.4	0.4	1.2
<b>PS-230A</b>		0.4	0.4	1.2
<b>PS 250A</b>		0.4	0.4	1.2
<b>PS 320A</b>		0.4	0.4	1.2
<b>PS-270A</b>		0.4	0.4	1.2
<b>PS-240A</b>		0.4	0.4	1.2
<b>PS-PL</b>		0.4	0.4	1.2
<b>PS-RK</b>		0.4	0.4	1.2
<b>PS-RJ</b>		0.4	0.4	1.2
<b>PS-RI</b>		0.4	0.4	1.2
<b>PS-HH</b>		0.4	0.4	1.2
<b>PS-RG</b>		0.4	0.4	1.2
<b>PS-RF</b>		0.4	0.4	1.2
<b>PS-RE</b>		0.4	0.4	1.2
<b>PS-RD</b>		0.4	0.4	1.2
<b>PS-RC</b>		0.4	0.4	1.2
<b>PS-RB</b>		0.4	0.4	1.2
<b>PS-RA</b>		0.4	0.4	1.2
<b>PS-330A</b>		0.4	0.4	1.2
<b>PS-330B</b>		0.4	0.4	1.2
<b>PS-340A</b>		0.4	0.4	1.2
<b>PS340B</b>		0.4	0.4	1.2
<b>PS-340C</b>		0.4	0.4	1.2
<b>PS-250A</b>		0.4	0.4	1.2
<b>TOTAL ALL UNITS</b>		100.00	100.00	