#### DECLARATION FOR AVIATION BUSINESS CENTER CONDOMINIUMS

THIS DECLARATION FOR AVIATION BUSINESS CENTER CONDOMINIUMS (hereinafter referred to as the "Declaration") is made this 15 day of JUNE, 2011 by AVIATION BUSINESS CENTER, LLC, a Virginia limited liability company (hereinafter referred to as the "Declarant").

#### **RECITALS:**

WHEREAS, the Declarant is the owner in fee simple of approximately 5.3347 acres of land situate, lying and being in Frederick County, Virginia, as more particularly described on Sheet 1 of that certain plat titled "AVIATION BUSINESS CENTER CONDOMINIUMS", dated June 3, 2010, prepared by Painter-Lewis, P.L.C. (hereinafter referred to as the "Plat") which is attached hereto and made a part hereof, and labeled as <u>Exhibit A</u> to this Declaration; and

WHEREAS, the Declarant desires to submit the aforesaid land and all buildings and improvements constructed thereon to a condominium regime in accordance with Chapter 4.2 of Title 55 of the Code of Virginia, 1950, as amended (hereinafter referred to as the "Condominium Act").

**NOW, THEREFORE**, in consideration of the foregoing recitals, and in accordance with the Condominium Act, the Declarant hereby states as follows:

## ARTICLE 1 CREATION; DEFINED TERMS

- Section 1.1. Creation of the Condominium. Pursuant to the provisions of the Condominium Act, the Declarant hereby creates a condominium comprised of the land described on the Plat (hereinafter referred to as the "Land"), together with all improvements thereto and all easements, rights, and appurtenances thereunto appertaining (hereinafter referred to as the "Property").
- Section 1.2. <u>Defined Terms</u>. Except as otherwise defined herein or in Section 1.3 of the Bylaws of Aviation Business Center Condominiums Unit Owners' Association (hereinafter referred to as the "Bylaws"), which are attached hereto and made a part hereof as <u>Exhibit B</u> to this Declaration, all terms used in the condominium instruments shall have the meanings specified in section 55-79.41 of the Condominium Act. All exhibits referred to in the condominium instruments are exhibits to this Declaration.
- Section 1.3. Name of Condominium. The name of the condominium is the AVIATION BUSINESS CENTER CONDOMINIUMS (hereinafter referred to as the "Condominium").

## ARTICLE 2 BUILDINGS ON THE LAND; UNIT BOUNDARIES

- Section 2.1. Location and Dimensions of Buildings. The location and dimensions of the buildings on the Land are depicted on that certain plat titled "Site Plan Office/Warehouse 2003 Airport Business Center Lot 4", dated June 2002, revised November 7, 2005 and August 27, 2008, prepared by Greenway Engineering (hereinafter referred to as the "Survey") which is attached hereto and made a part hereof, and labeled as Exhibit C to this Declaration.
- Section 2.2. Units. The location of units within the buildings on the Land and each unit's dimensions are depicted on Sheets 5 through 23, inclusive, of the Plat.
  - Section 2.3. Unit Boundaries. The boundaries of each unit are as follows:
- (a) <u>Horizontal (upper and lower) Boundaries:</u> The upper and lower boundaries of the units are set forth on Sheet 4 of the Plat.
- (b) <u>Vertical (Perimetric) Boundaries</u>. The vertical boundaries of the units are set forth on Sheet 4 of the Plat..
- (c) <u>Utility System</u>. Each unit includes the heating and air-conditioning apparatus serving only that unit (whether or not located within the unit boundaries) which apparatus is a part of the unit. Any portion of a utility system or other apparatus serving more than one unit (e.g., pipes, conduits, ducts) which is located partially within and partially outside the unit is part of the common elements. Any portion of a utility system serving only one unit which is located outside the unit is a limited common element appurtenant to that unit.
- <u>Section 2.4.</u> <u>Maintenance Responsibilities</u>. Notwithstanding the ownership of the various portions of the common elements and the units by virtue of the foregoing boundary description, the provisions of the Bylaws shall govern the division of maintenance and repair responsibilities between the unit owner and the Association.
- <u>Section 2.5.</u> <u>Relocation of Unit Boundaries and Subdivision of Units.</u> Relocation of boundaries between units and subdivision of units is permitted subject to compliance with the provisions therefor in Sections 5.7 and 8.5 of the Bylaws and in sections 55-79.69 and 55-79.70 of the Condominium Act.
- Section 2.6. Declarant's Obligation to Begin and Complete Improvements. The Declarant has no obligation to complete improvements, if any, identified on the Plat as "NOT YET COMPLETED" and the Declarant has no obligation to begin and complete improvements, if any, identified on the Plat, as "NOT YET BEGUN". The size and capacity of the improvements are as set forth on the Plat.

### ARTICLE 3 COMMON ELEMENTS

- <u>Section 3.1.</u> <u>Common Elements</u>. The common elements of the Condominium consist of all portions of the Condominium, other than the units, including without limitation, parking areas, roof, building exteriors and landscaping.
- Section 3.2 <u>Allocation of Interests in the Common Elements</u>. In accordance with Section 55-79.55(b) of the Condominium Act, each unit shall have an equal undivided interest in the Common Elements.

#### Section 3.3. Limited Common Elements.

- (a) Except to the extent otherwise provided herein, the Declarant designates those items specified in Section 55-79.50(e) of the Code of Virginia, 1950, as amended, as Limited Common Elements, as well as those items, if any, which are marked and identified on the Plat. To the extent there is any inconsistency between this Declaration and the Plat, this Declaration shall control.
- (b) Pursuant to Section 55-79.54A(6) of the Condominium Act, the Declarant reserves the exclusive right to assign parking spaces as Limited Common Elements for the exclusive use of certain unit owners to whose units these parking spaces shall be appurtenant. The Declarant may assign such a Common Element as a Limited Common Element parking space pursuant to the provisions of Section 55-79.57 of the Condominium Act by causing an appropriate amendment to this Declaration or to the Plans to be signed and recorded.
- Section 3.4. Reserved Common Elements. The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses in designated common elements to the Association or to any unit owners and to establish a reasonable charge to such unit owners for the use and maintenance thereof. The common elements or portions thereof so designated shall be referred to as Reserved Common Elements. Such designation by the Board shall not be construed as a sale or disposition of the common elements.
- Section 3.5. Alteration of Common Elements by the Declarant. The Declarant reserves the right to modify, alter, remove, or improve defective, obsolete, or non-functional portions of the common elements, including without limitation any equipment, fixtures, and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so, until the expiration of the applicable warranty period.

## ARTICLE 4 EASEMENTS

In addition to the easements created by sections 55-79.60 and 55-79.65 of the Condominium Act, the following easements are hereby granted and the following rights are hereby reserved.

Section 4.1. Easement to Facilitate Sales. All units shall be subject to an easement in favor of the Declarant pursuant to section 55-79.66 of the Condominium Act. The Declarant reserves the right to use any units owned or leased by the Declarant as models, management offices, sales offices or customer service offices for this project or other projects. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. The Declarant shall have the right to restrict the use of certain common element parking spaces for sales purposes and to use such spaces for sales purposes. Further, the Declarant shall have the right to erect temporary offices on certain common element parking spaces for models, sales, management, customer service, construction and similar purposes. This easement shall continue until the Declarant has conveyed to unit owners other than the Declarant all the units in the Condominium which the Declarant has the right to create.

#### Section 4.2. Easement for Access and Support.

- (a) Access. The Declarant reserves in favor of the Declarant, the managing agent and any other person authorized by the Board of Directors the right of access to any common element or unit as provided in section 55-79.79 of the Condominium Act and Section 5.9 of the Bylaws. In case of emergency, such entry shall be immediate whether or not the unit owner is present at the time. Further, until the expiration of any warranty period, such entry shall be permitted to inspect or perform warranty-related work (for the benefit of the unit being entered, other units or the common elements) whether or not the unit owner consents or is present at the time.
- (b) <u>Support</u>. Each unit and common element shall have an easement for lateral and subjacent support from every other unit and common element.

#### Section 4.3. Declarant's Right to Grant Easements.

easements and rights-of-way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sanitary sewer, drainage, storm water management, gas, electricity, telephone, television reception and other utilities. The foregoing easements and rights-of-way may be granted or reserved for the benefit of any portion of the Property or any portion of the Land which is not, at the time of such grant or reservation part of the Property. This right shall continue until the seventh anniversary of the recordation of this Declaration.

(b) Access. The Declarant reserves the right to grant or reserve easements and rights-of-way through, over and across the Property to afford vehicular and pedestrian access through, over and across the common elements from and to any public street or road adjoining the Property and any portion of the Land which is not, at the time of such grant or reservation, part of the Property. This right shall continue until the seventh anniversary of the recordation of this Declaration.

#### Section 4.4. Cross-Easement for Use of Common Elements.

- (a) <u>Grant of Easement and Reservation of Right</u>. Each unit owner is hereby granted a non-exclusive easement for access to and use of the amenities, grounds, driveways and parking facilities, if any, constituting a portion of the Common Elements (other than any Limited Common Elements) of the Condominium.
- (b) <u>Extent of Easement</u>. The easement created hereby shall be subject to the following:
- (1) the rights of the Declarant to grant and reserve easements and rights-ofway as set forth in Section 4.3 above; and
- (2) the right of the Association to adopt rules and regulations governing the use of the Common Elements.
- (c) <u>Delegation of Use</u>. Any person having the right to use the Common Elements may delegate such right to the employees, agents and tenants who occupy the Land and to such other persons as may be permitted by the Association.
- (d) Rights to Use. Each person having the right to use the Common Elements and each person to whom such right has been delegated shall comply with the rules and regulations regarding such use, as such rules and regulations may be established and amended from time to time by the Board of Directors. Such rights to use may be suspended upon failure of a unit owner to pay condominium assessments, whether such unit owner owns a unit in the same or in an adjacent condominium, upon failure to comply with such rules and regulations.
- Section 4.5. Easement to Facilitate Development. The Declarant reserves a transferable easement over and on the common elements for the purpose of making improvements on the Land pursuant to the provisions of the condominium instruments and the Condominium Act, and for the purpose of doing all things reasonably necessary and proper in connection therewith.
- Section 4.6. Development Plan, Site Plan and Zoning Amendments. If any modification or amendment to any development plan, site plan or the zoning entitlements for the Condominium or the additional land are sought and the signatures of the unit owners or the officers of the Unit Owners Association are required therefore, then: (i) during the Declarant Control Period the Declarant (through an authorized representative) and (ii) after the Declarant Control Period the President of the

Unit Owners Association (or other authorized agent designated by the Board of Directors) shall have the irrevocable power to act as attorney-in-fact for the unit owners (other than the Declarant) and the Unit Owners Association, on their behalf, to sign all documents required. Further, the President of the Unit Owners Association (or other authorized agent designated by the Board of Directors) shall have the irrevocable power to act as attorney-in-fact for the unit owners to receive any notices which may be required in connection with any such modification or amendment.

## ARTICLE 5 DEVELOPMENT OPTIONS

- <u>Section 5.1</u> <u>Convertible Land</u>: The Condominium does not contain any Convertible Land, as defined in Section 55-79.41 of the Condominium Act.
- Section 5.2 Expansion of the Condominium: The Condominium does not contain any Additional Land, as defined in Section 55-79.41 of the Condominium Act.
- Section 5.3 Convertible Space: The Condominium does not contain any Convertible Space, as defined in Section 55-79.41 of the Condominium Act.
- Section 5.4 Contractible Condominium: The Declarant hereby reserves an option until the seventh anniversary of the recordation of this Declaration to contract the Condominium from time to time in compliance with Sections 55-79.54(d) and 55-79.64 of the Condominium Act without the consent of any unit owner or Mortgagee. The option to contract may be terminated before such anniversary only upon the recordation by the Declarant of an instrument relinquishing this option. The Declarant reserves the right to withdraw any or all portions of the withdrawable land at any time, at different times, in any order, without limitation; provided, however, that the withdrawable land shall not exceed the area described on Exhibit A. There are no other limitations on the option to contract.

## ARTICLE 6 RIGHT TO LEASE OR SELL UNITS

The Declarant shall own in fee simple each condominium unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant retains the right to enter into leases with any persons for the occupancy of any of the units owned by the Declarant.

## ARTICLE 7 COMMERCIAL USE

All units must be used for non-residential (commercial, office, etc.) uses in accordance with the applicable zoning; no unit may be used for residential purposes.

#### ARTICLE 8 SPECIAL DECLARANT RIGHTS.

The term "Special Declarant Rights" shall mean those rights as specified in Section 55-79.41 of the Condominium Act. There is hereby reserved unto the Declarant all the Special Declarant Rights as defined in Section 55-79.41 of the Condominium Act. Any transfer of any Special Declarant Rights shall be in accordance with Section 55-79.74:3 of the Condominium Act.

### ARTICLE 9 AMENDMENT TO CONDOMINIUM INSTRUMENTS; REQUIRED CONSENT

This Declaration may be amended as provided in the Condominium Act, as amended from time to time. No amendment of the Declaration may be made without the prior written approval of the required percentage of Mortgagees where such approval is provided for in Section 10.2 of the Bylaws or where such approval is required elsewhere in the condominium instruments or by the Condominium Act.

### ARTICLE 10 NO OBLIGATIONS

Nothing contained in the condominium instruments shall be deemed to impose upon the Declarant or its successors or assigns any obligation of any nature to build, renovate or provide any improvements except to the extent required by the Condominium Act.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be signed on

DECLARANT:

AVIATION BUSINESS CENTER, LLC a Virginia limited liability company

By: Mby Colletter Name: Michael B. Golhat
Title: Manya

7

# COMMONWEALTH OF VIRGINIA COUNTY OF LOUDOUN, to-wit:

I, the undersigned, a Notary Public in and fo	or the jurisdiction aforesaid, do hereby certify that
MICHAEL B. EDELHEIT as MANAGER	_ of Aviation Business Center, LLC, a Virginia
limited liability company, whose name is signed to the foregoing instrument, has acknowledged the	
same before me in the aforesaid jurisdiction on behalf of the company.	
GIVEN under my hand and seal on June 15, 2011.	
	Catherine & Sordan Notary Public
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My commission expires: 6 30 2011  Notary Registration Number:	-
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EXHIBIT A

PLAT

### AVIATION BUSINESS CENTER CONDOMINIUMS

DESCRIPTION OF CONDOMINIUM LAND

#### METES AND BOUNDS TM 64-A-45K

A parcel of land in Shawnee Magisterial District, Frederick County, Virginia, lying at the southwest corner of the intersection of Airport Road (State Route 645) and Muskoka Court;

Beginning at an iron rod in the south right of way line of Airport Road (State Route 645), a corner with Luis C. Pires:

Thence running with the said south right of way line of Airport Road (State Route 645), S 80' 32' 12" E, 364.10 feet to an iron rod at the intersection of Muskoka Court;

Thence running with the west right of way line of Muskoka Court, along the arc of a curve to the right 78.54 feet, said curve having a radius of 50.00 feet, a delta angle of 90' 00' 00", a tangent distance of 50.00 feet, a chord distance of 70.71 feet and a chord bearing S 35' 32' 13" E to an iron rod;

Thence continuing with the said west right of way line of Muskako Court, S 09' 27' 48" W, 50.00 feet to an iron rod;

Thence cantinuing with the said west right of way line of Muskako Court, along the arc of a curve to the right 278.34 feet, said curve having a radius of 475.00 feet, a delta angle of 32' 36' 34", a tangent distance of 138.94 feet, a chord distance of 266.71 feet and a chord bearing S 25' 46' 04" W to an iron rod:

Thence continuing with the said west right of way line of Muskako Court, S 42' 04' 21" W, 287.68 feet to an iron rod, a corner with Averitt Properties, Inc. (Lot A-1, Airport Business Center);

Thence running with the soid line of Averitt Properties, Inc. (Lot A-1, Airport Business Center), N 47' 55' 39" W, 449.06 feet to an iron rod in the line of Preston Place I Associates;

Thence running with the said line of Preston Place I Associates, N 56 18 36" E, 42.12 feet to an iron rod, a corner with the aforementioned Luis C. Pires;

Thence running with the said line of Luis C. Pires, N 41° 46′ 03″ E, 261.81 feet to an iron rod;

Thence continuing with the sold line of Luis C. Pires, N 21' 54' 34" E, 108.77 feet to the beginning.

Containing 5.3347 Acres of land.

# AVIATION BUSINESS CENTER CONDOMINIUMS

SHAWNEE DISTRICT
FREDERICK COUNTY, VIRGINIA
SCALE: 1"=20' JUNE 3, 2010
PAINTER-LEWIS, P.L.C.
817 CEDAR CREEK GRADE
WINCHESTER, VIRGINIA 22601
540-662-5792

Sheet 1 of 23



# AVIATION BUSINESS CENTER CONDOMINIUMS PROJECT SUMMARY

EXISTING ZONING: M1
EXISTING USE: OFFICES AND LIGHT INDUSTRIAL
PROPOSED USE: PROFESSIONAL OFFICES (MEDICAL & GENERAL)
TAX ID NUMBER: 252-1-B-6
TOTAL SITE AREA: 5.3347 AC.
TOTAL NO. OF CONDOS: 14
TOTAL NO. OF PARKING SPACES PROVIDED: 217 SPACES
TOTAL NO. OF HANDICAP SPACES PROVIDED: 9
SETBACKS: FRONT: 75 FT.
REAR: 25 FT.
RIGHT SIDE: 25 FT.
LEFT SIDE: 75 FT.
MAXIMUM BUILDING HEIGHT: 35'

# AVIATION BUSINESS CENTER CONDOMINIUMS

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540-662-5792

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### SURVEYOR'S CERTIFICATE

I, ELLIOTT RITCHIE, JR., A DULY LICENSED LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLATS AND THE BOUNDARY INFORMATION AND EXISTING IMPROVEMENTS SHOWN HEREIN, TO THE BEST OF MY KNOWLEDGE AND BELIEF, ARE CORRECT AND COMPLY WITH THE MINIMUM PROCEDURES AND STANDARDS ESTABLISHED BY THE VIRGINIA STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS AND ARE ACCURATE AND COMPLY WITH THE PROVISIONS OF PARAGRAPH (a) OF SECTION 55~79.58 OF THE VIRGINIA CONDOMINIUM ACT AND 1 FURTHER CERTIFY THAT UNIT 1 THROUGH UNIT 12 AND THE IMPROVEMENTS SHOWN HEREIN (UNLESS OTHERWISE NOTED) ARE SUBSTANTIALLY COMPLETE.

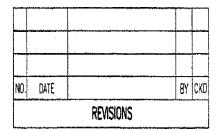
ELLIOTT RITCHIE, JR. DATE
VA. C.L.S. #1318

ELLIOTT RITCHE, JR.
No. 1318
6/3/10

# AVIATION BUSINESS CENTER CONDOMINIUMS

SHAWNEE DISTRICT
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# AVIATION BUSINESS CENTER CONDOMINIUMS DESCRIPTION OF HORIZONTAL AND VERTICAL BOUNDARIES OF UNITS

#### HORIZONTAL BOUNDARIES

FACE OF FINISH INTERIOR CONCRETE OR MASONRY WALLS AND FACE OF INTERIOR STUD WALL OF MECHANICAL ROOM OF UNIT 12.

#### **VERTICAL BOUNDARIES:**

LOWER VERTICAL BOUNDARY FOR UNITS 1, 2, 3, 4, 5, 6, 8, 9, 10 AND 12 IS THE TOP OF THE CONCRETE FLOOR SLAB, AND THE UPPER VERTICAL BOUNDARY IS BOTTOM OF CENTER ROOF TRUSSE.

#### linit 7:

LOWER VERTICAL BOUNDARY FOR UNITS 7 IS THE TOP OF THE CONCRETE FLOOR SLAB, AND THE UPPER VERTICAL BOUNDARY IS BOTTOM OF CENTER STEEL I—BEAM HOLDING SECOND FLOOR TRUSSES.

LOWER VERTICAL BOUNDARY FOR UNITS 7A IS THE TOP OF THE CONCRETE FLOOR SLAB, AND THE UPPER VERTICAL BOUNDARY IS BOTTOM OF CENTER TRUSS HOLDING ROOF TRUSSES.

#### UNIT 11:

LOWER VERTICAL BOUNDARY FOR UNITS 11 IS THE TOP OF THE CONCRETE FLOOR SLAB, AND THE UPPER VERTICAL BOUNDARY IS BOTTOM OF CENTER I-BEAM HOLDING SECOND FLOOR TRUSSES.

LOWER VERTICAL BOUNDARY FOR UNITS 11A IS THE TOP OF THE CONCRETE FLOOR SLAB, AND THE UPPER VERTICAL BOUNDARY IS BOTTOM OF CENTER FLOOR TRUSS HOLDING ROOF TRUSSES.

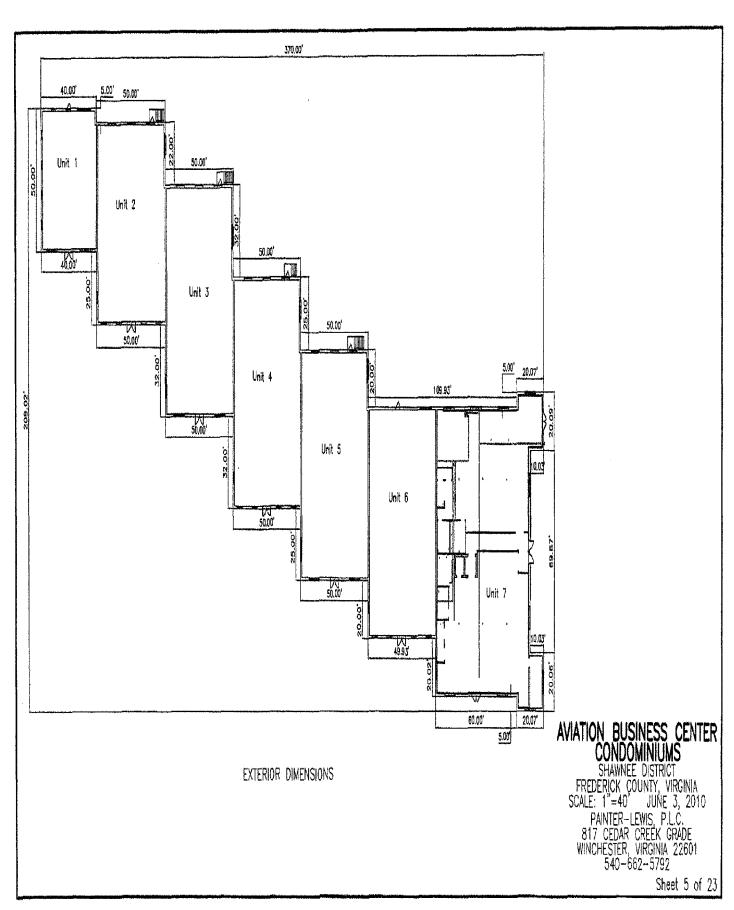
ALL OWNERS OF CONDOMINIUM UNITS IN AMATION BUSINESS CENTER CONDOMINIUMS ARE REQUIRED TO BELONG TO THE AMATION BUSINESS CENTER CONDOMINIUMS UNIT OWNERS' ASSOCIATION. THE ASSOCIATION SHALL MAINTAIN ALL PARKING AREAS, LANDSCAPED AREAS AND OTHER COMMON ELEMENTS. ALL UNIT OWNERS SHALL PAY AN ANNUAL ASSESSMENT FOR THIS MAINTENANCE. THIS FEE AND ALL OF THE RULES OF THE ASSOCIATION ARE SET FORTH IN THE INSTRUMENT ATTACHED TO THESE PLATS.

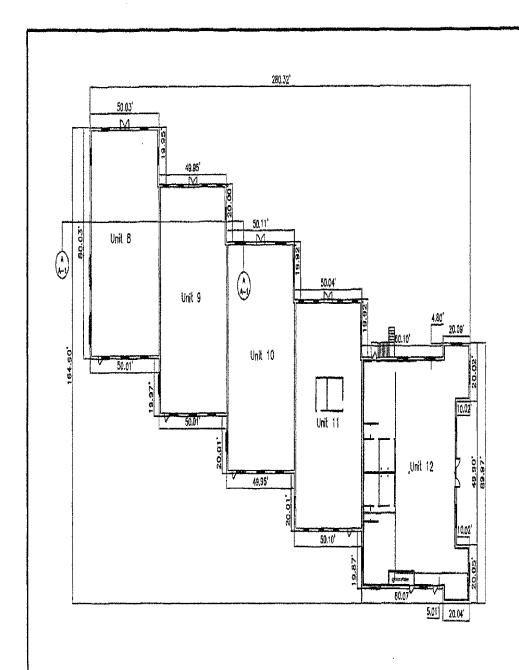
THE PROPERTY REPRESENTED HEREIN IS THE SAME PROPERTY CONVEYED TO AVIATION BUSINESS CENTER, LLC FROM INVIC, LLC, BY DEED DATED JUNE 6, 2005, SAID DEED RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR FREDERICK COUNTY, VIRGINIA AS INSTRUMENT #050012299.

# AVIATION BUSINESS CENTER CONDOMINIUMS

SHAWNEE DISTRICT
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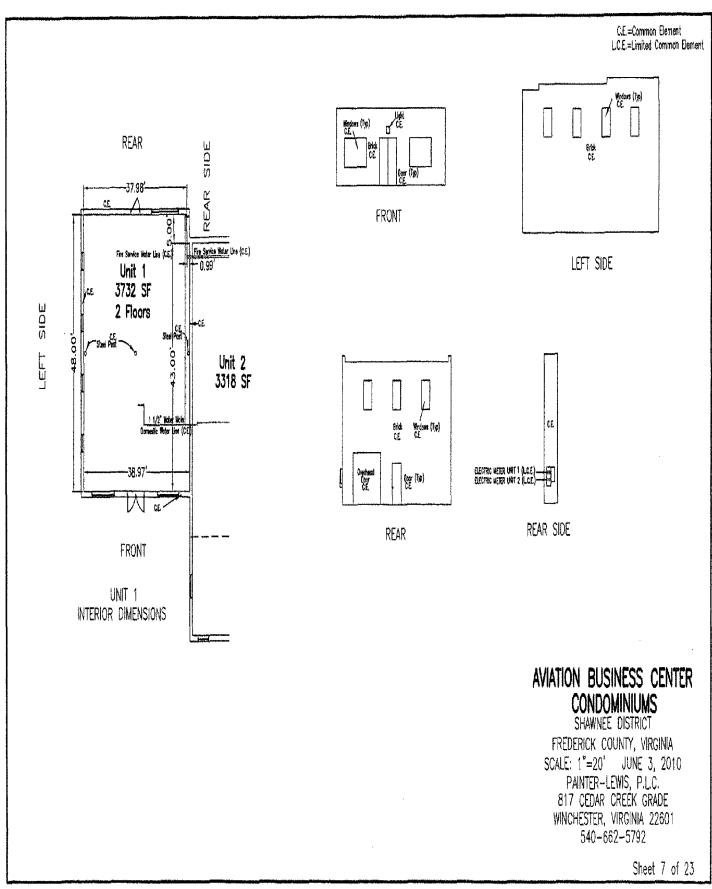


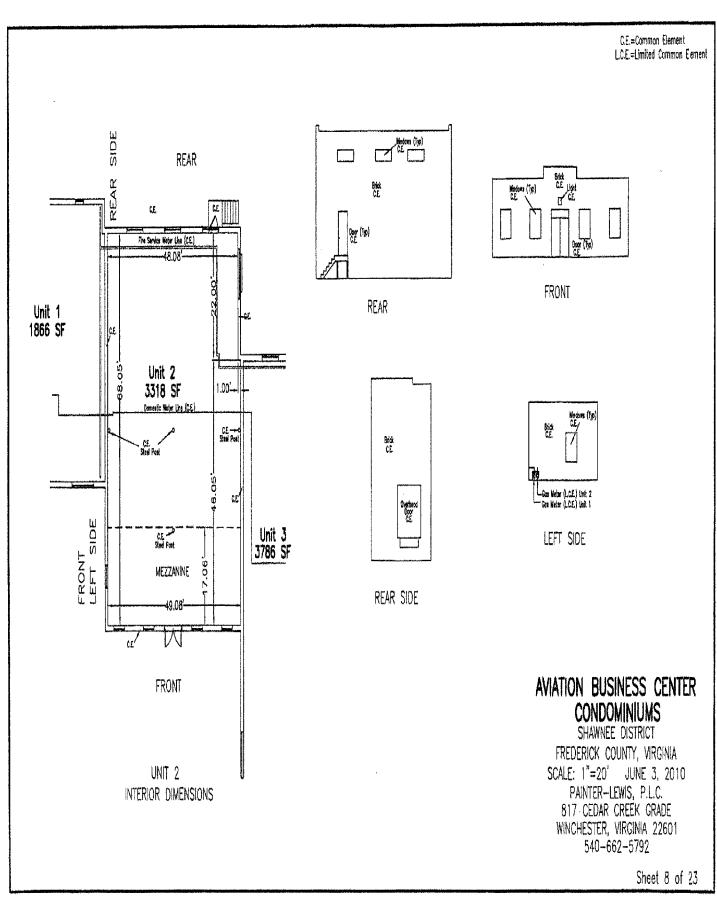
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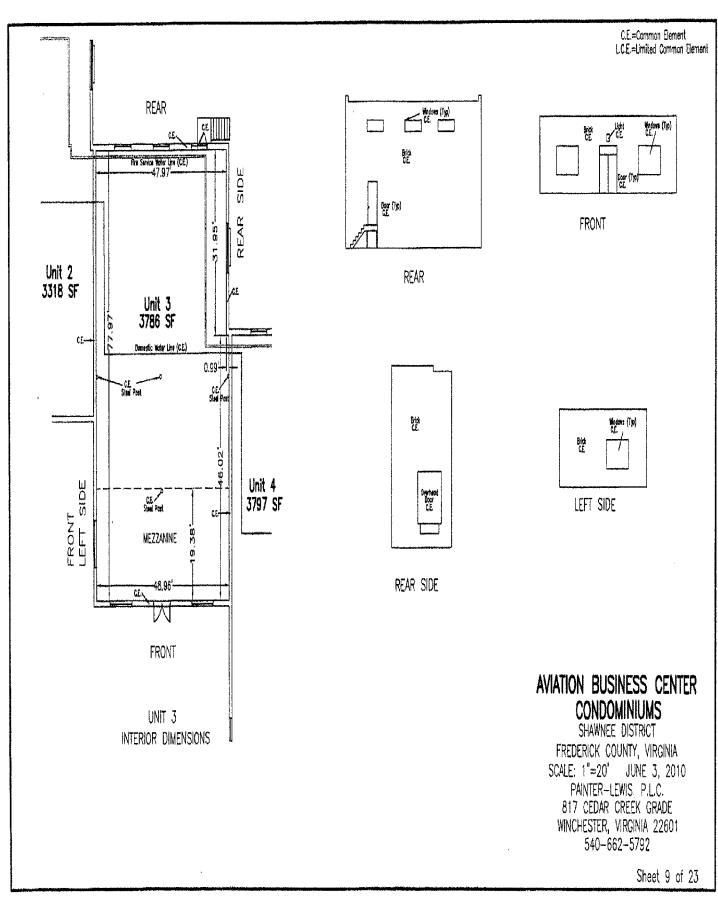
AVIATION BUSINESS CENTER CONDOMINIUMS

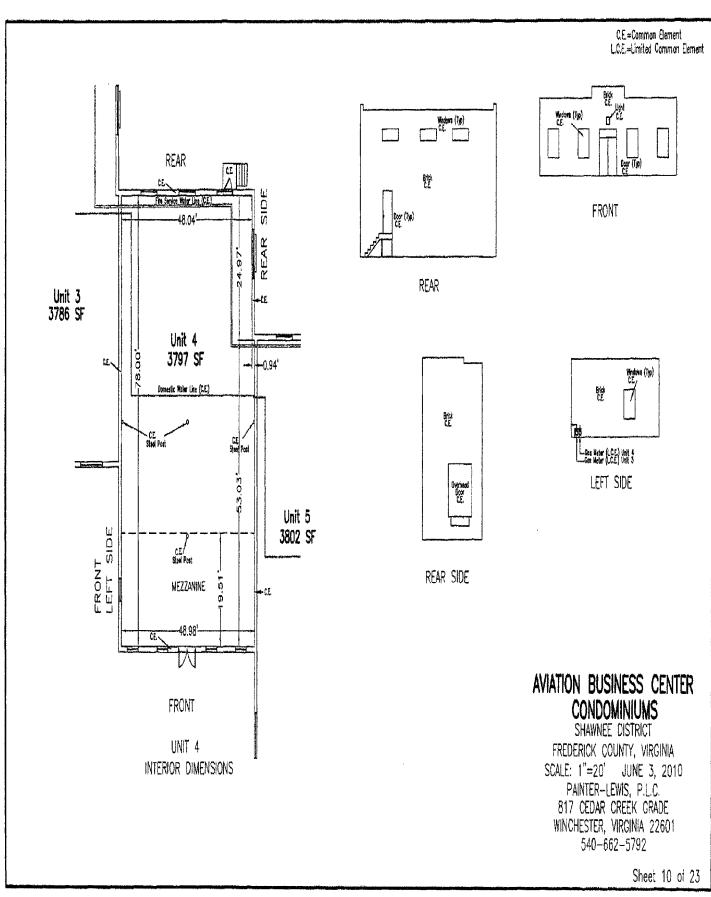
SHAWNEE DISTRICT
FREDERICK COUNTY, VIRGINIA
SCALE: 1"=40' JUNE 3, 2010
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540-662-5792
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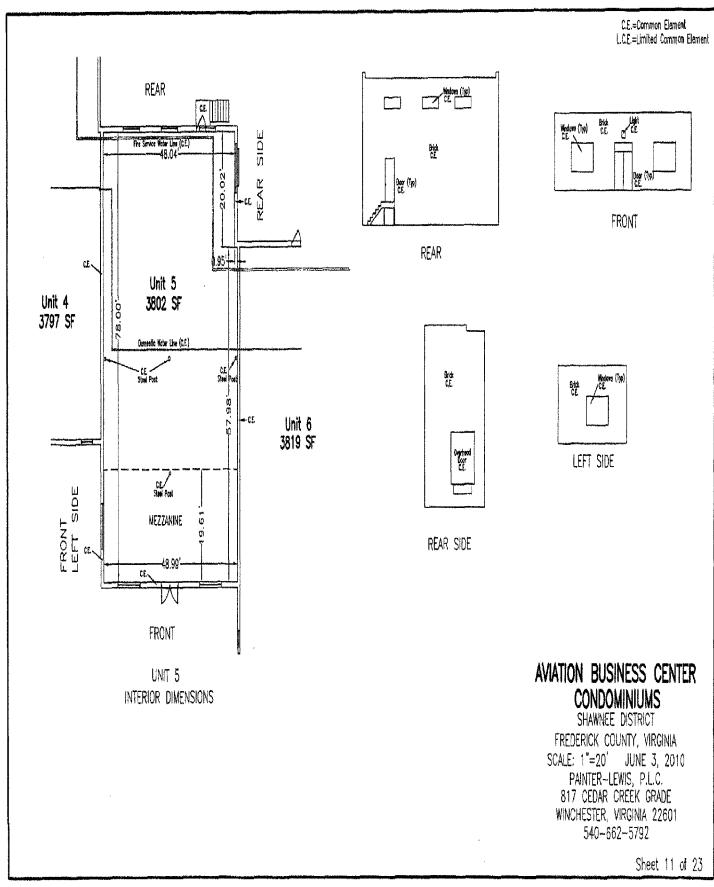
Sheet 6 of 23

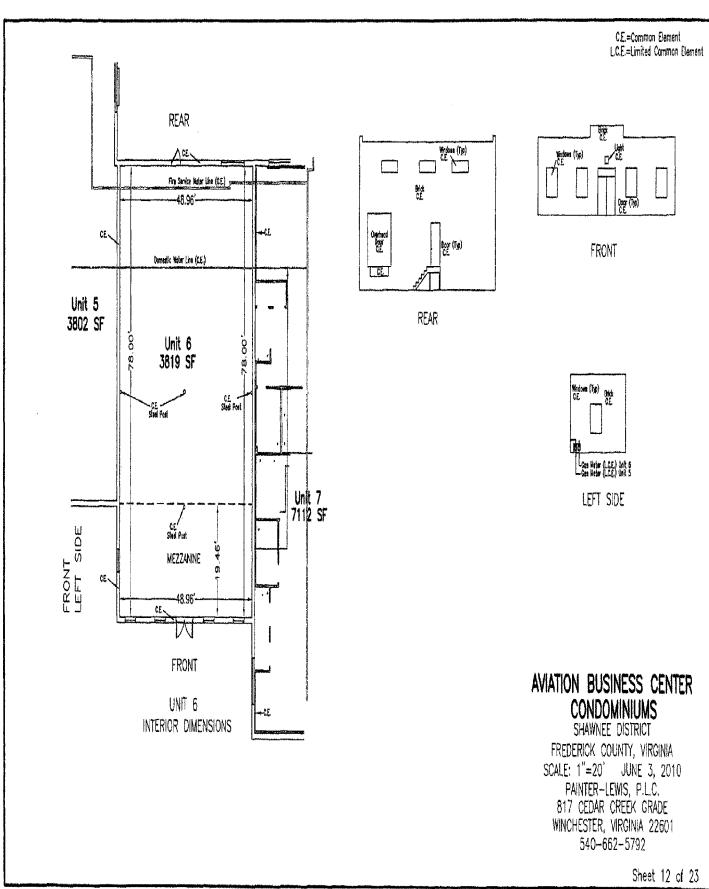


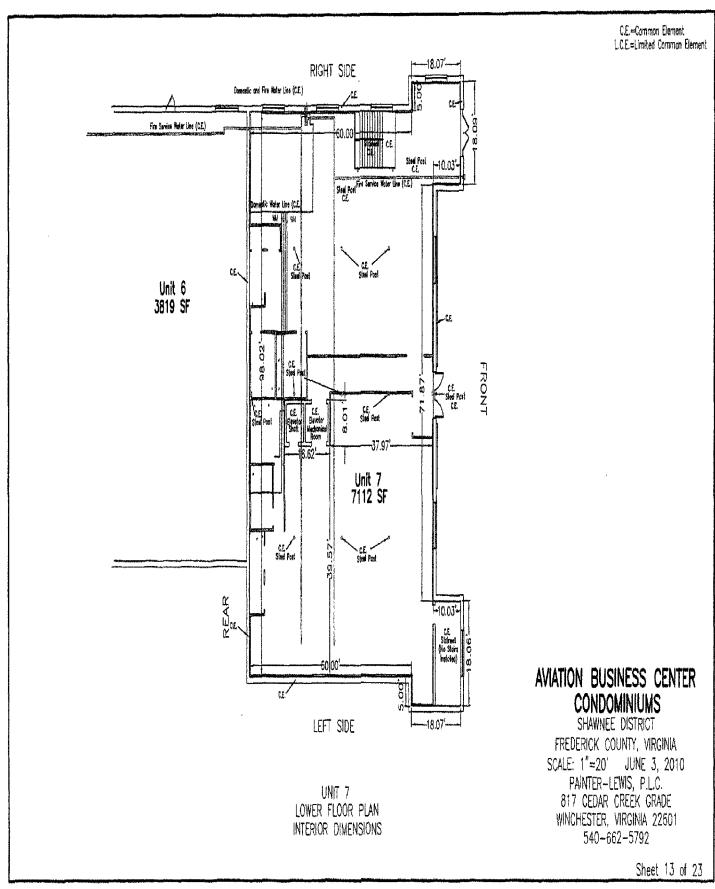


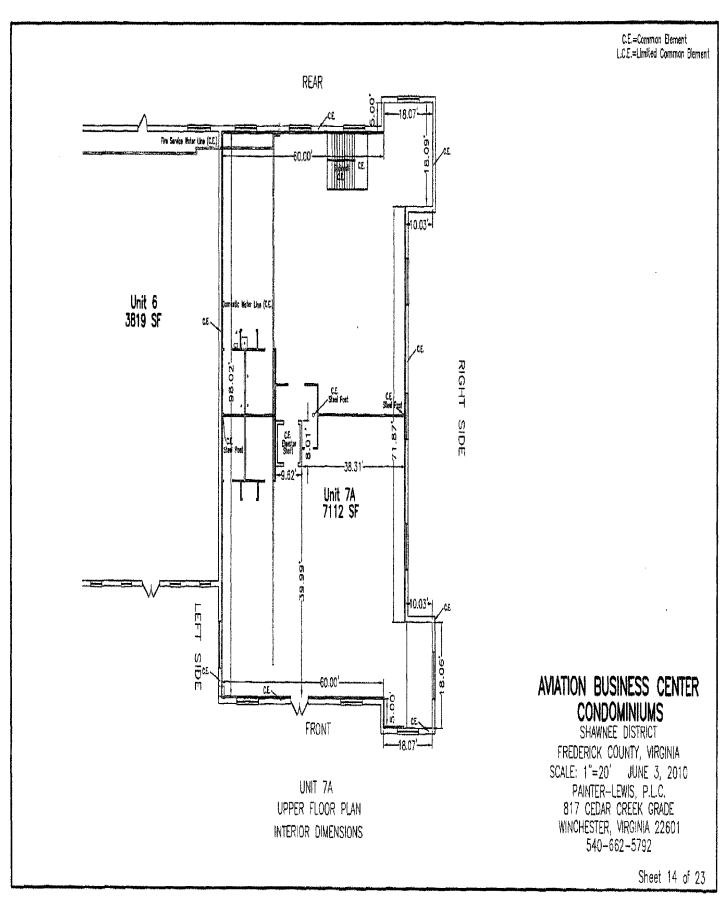




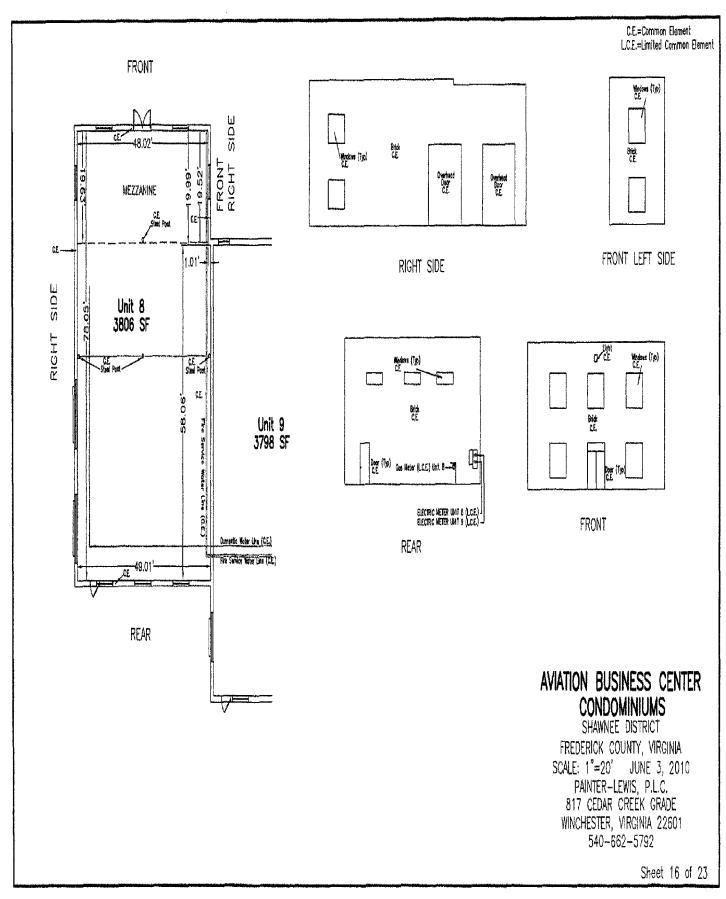


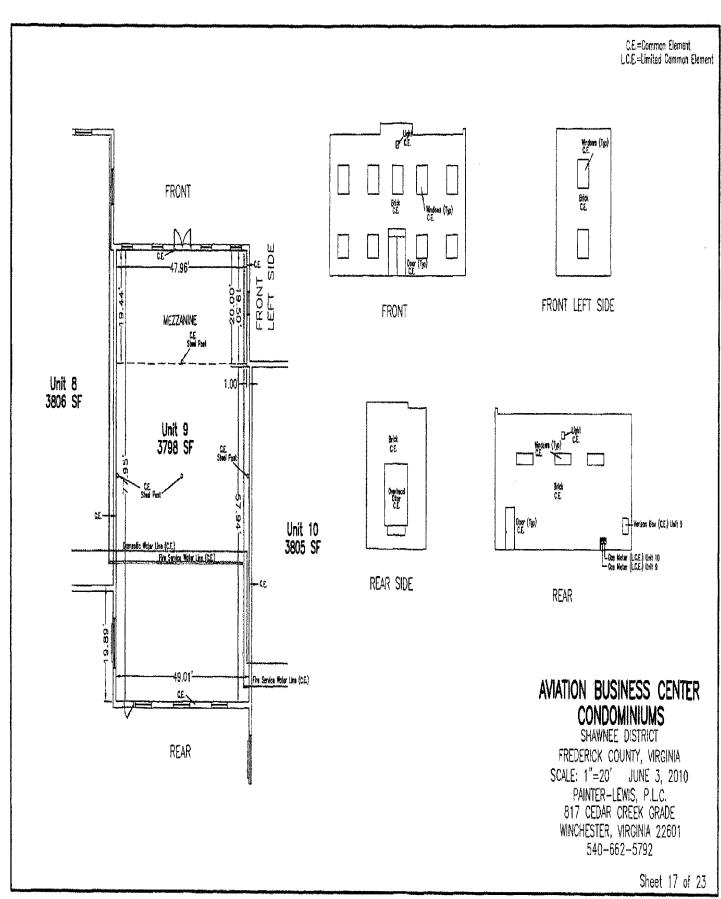


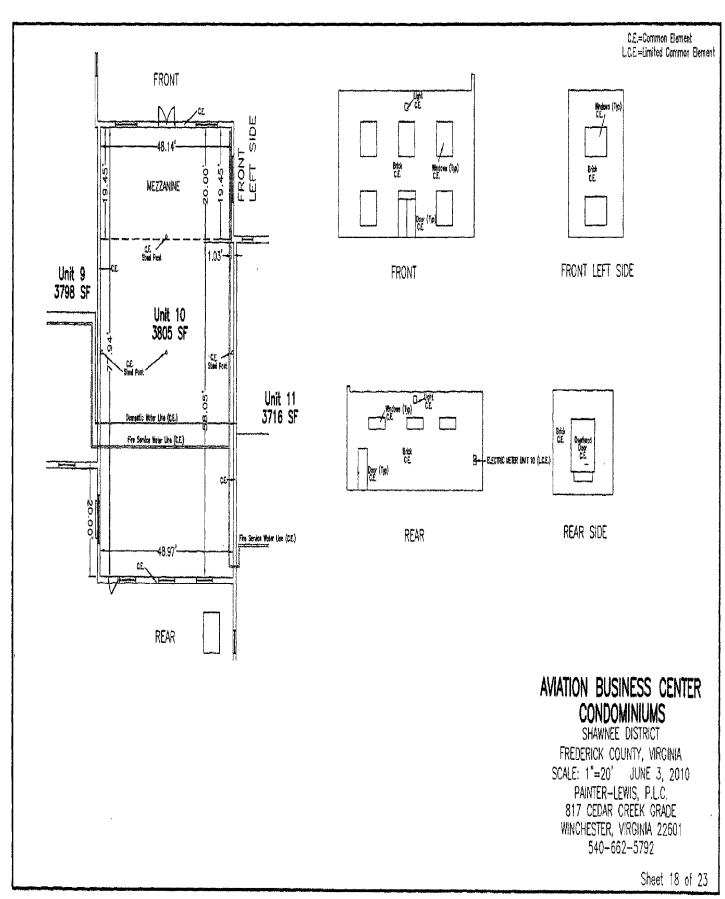


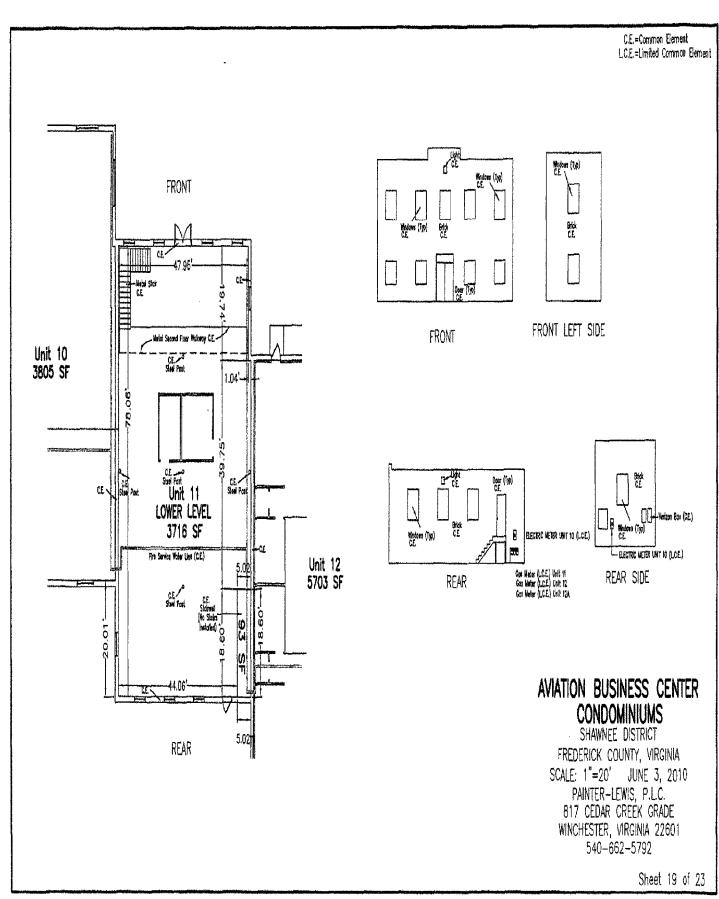


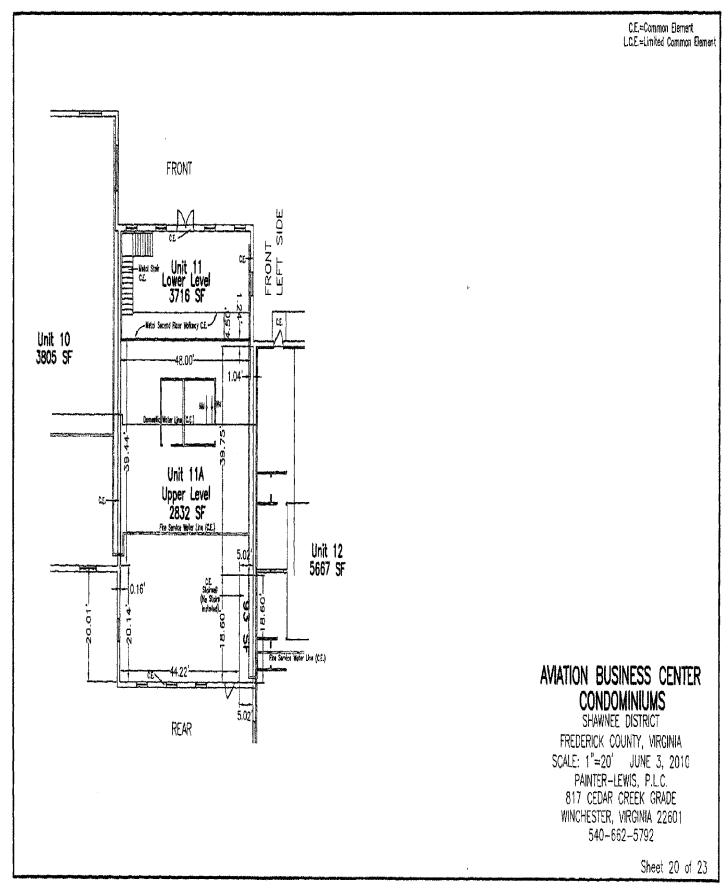
C.E.=Common Element L.C.E.=Limited Common Element Brick C.E. Brick C.E. Bilds C.E. C.E. årdk CE Oper (Typ) C.E. UNIT 7 UNIT 7 REAR ELEVATION UPPER FLOOR RIGHT SIDE ELEVATION UPPER FLOOR RIGHT SIDE ELEVATION LOWER FLOOR FRONT ELEVATION LOWER FLOOR AVIATION BUSINESS CENTER ELECTRIC CRICKIT SHEAKUR BOUS (C.E.) **CONDOMINIUMS** SHAWNEE DISTRICT FREDERICK COUNTY, VIRGINIA UNIT 7 UNIT 7 SCALE: 1"=20' JUNE 3, 2010 FRONT ELEVATION UPPER FLOOR LEFT SIDE ELEVATION PAINTER-LEWIS, P.L.C. UPPER FLOOR 817 CEDAR CREEK GRADE WINCHESTER, VIRGINIA 22601 540-662-5792 Sheet 15 of 23

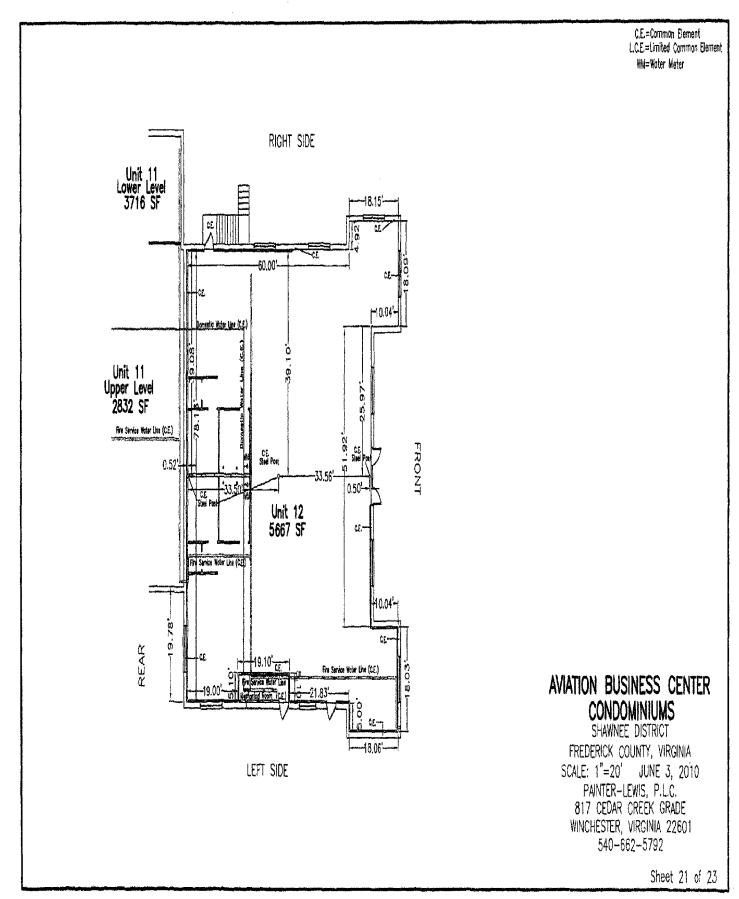


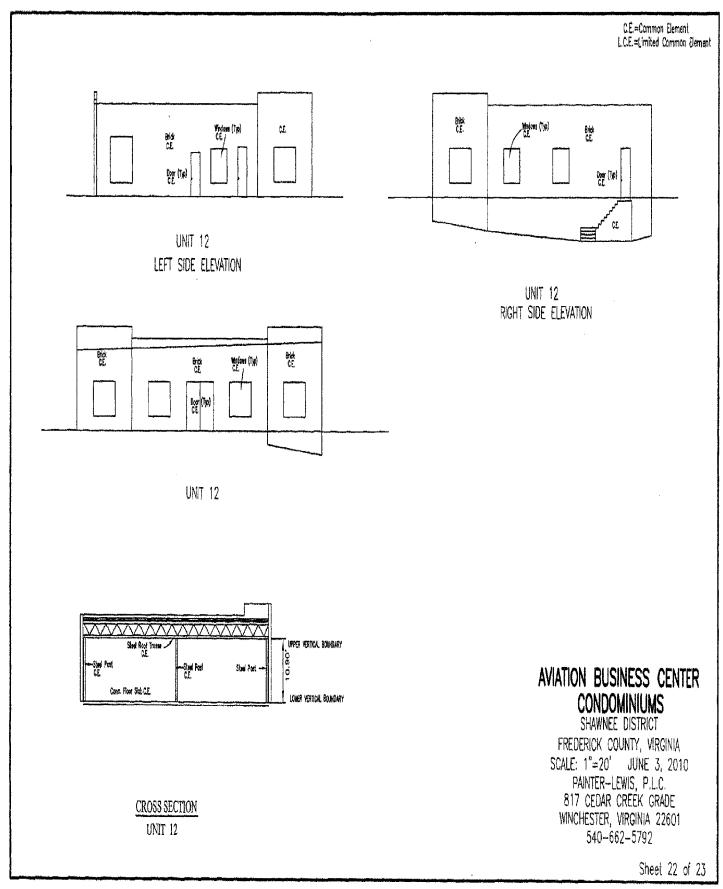


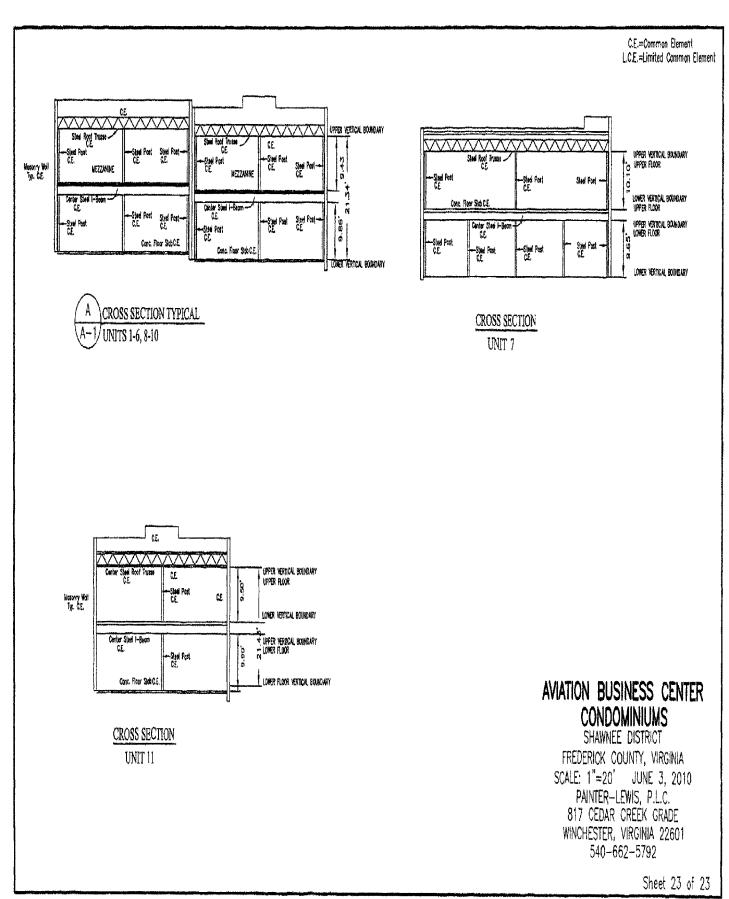












**EXHIBIT B** 

BYLAWS