



INSTR # 6649428
OR BK 04593 Pgs 1573 - 1675; (103pgs)
RECORDED 02/15/2005 02:40:48 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY, FLORIDA
RECORDING FEE 877.00
DEPUTY CLERK D Schaefer

DECLARATION OF CONDOMINIUM
FOR
OASIS OF CAPE CORAL, A CONDOMINIUM

TABLE OF CONTENTS

DECLARATION OF CONDOMINIUM

FOR

OASIS OF CAPE CORAL, A CONDOMINIUM

1.	Introduction and Submission	1
2.	Definitions	1-4
3.	Description of Condominium	4-10
4.	Restraint Upon Separation and Partition of Common Elements	10
5.	Ownership of Common Elements and Common Surplus and Share of Common Expenses; Voting Rights	10
6.	Amendments	10-11
7.	Maintenance	11-12
8.	Additions, Alterations or Improvements by the Association	13
9.	Additions, Alterations or Improvements by Unit Owner	13-14
10.	Changes in Developer-Owned Units	14
11.	Operation of the Condominium by the Association; Powers and Duties	14-17
12.	Determination of Common Expenses and Fixing of Assessments Therefor	17
13.	Collection of Assessments	18-20
14.	Insurance	20-25
15.	Reconstruction or Repair After Fire or Other Casualty	25-28
16.	Condemnation	28-31
17.	Occupancy and Use Restrictions	31-35

18.	Selling, Leasing and Mortgaging of Units	35-37
19.	Compliance and Default	37-39
20.	Termination of Condominium	39
21.	Additional Rights of Mortgagees and Others	39
22.	Covenant Running with the Land	40
23.	Additional Provisions	40-42
24.	Disclaimer of Warranties	42
25.	Mandatory Nonbinding Arbitration of Disputes	43

This Instrument Was Prepared By:
E. Austin White, Esquire
BECKER & POLIAKOFF, P.A.
Bank of America Center
4501 Tamiami Trail North, Suite 214
Naples, Florida 34103

**DECLARATION
OF
CONDOMINIUM
FOR
OASIS OF CAPE CORAL, A CONDOMINIUM**

BRIXTON DEVELOPMENT LLC, a Florida limited liability company (hereinafter called the "Developer"), does hereby declare as follows:

1. **INTRODUCTION AND SUBMISSION.**

1.1 **The Land.** Developer holds the fee simple title to certain land located in Lee County, Florida, as more particularly described in Exhibit "A" annexed hereto (the "Land").

1.2 **Submission Statement.** The Developer hereby submits the Land and all improvements erected or to be erected thereon all rights and appurtenants belonging thereto, and all other property, real, personal or mixed, now or hereafter situated on or within the Land - but excluding all public and private utility installations therein or thereon (e.g., cable television) - to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act as it exists on the date hereof. Without limiting any of the foregoing, no property, real, personal or mixed, not located within or upon the Land as aforesaid, unless otherwise expressly provided in this Declaration, shall for any purposes be deemed part of the Condominium or be subject to the jurisdiction of the Association, the operation and effect of the Florida Condominium Act or any rules or regulations promulgated pursuant thereto.

1.3 **Name.** The name by which this condominium is to be identified is OASIS OF CAPE CORAL, A CONDOMINIUM (hereinafter called the "Condominium").

2. **DEFINITIONS.** The following terms when used in this Declaration and in its exhibits, and as it and they may hereafter be amended, shall have the respective meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

2.1 "Act" means the Condominium Act (Chapter 718 of the Florida Statutes) as it exists on the date hereof.

2.2 "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Association, as amended from time to time.

- 2.3 "Assessment" means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
- 2.4 "Association" or "Condominium Association" means OASIS OF CAPE CORAL CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit, the sole entity responsible for the operation of common elements owned in undivided shares by Unit Owners.
- 2.5 "Association Property" means that property, real and personal, which is owned or leased by, or is dedicated by a recorded plat to the Association for the use and benefit of its members.
- 2.6 "Board" or "Board of Directors" means the representative body which is responsible for administration of the Association.
- 2.7 "Building" means the structure(s) that shall be situated on the Condominium Property in which the Units are to be located, regardless of the number thereof.
- 2.8 "By-Laws" mean the By-Laws of the Association, as they exist from time to time.
- 2.9 "Common Elements" mean and include: The portions of the Condominium Property which are not included in the Units, including, without limitation, the following items:
- (a) Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring, cables and other facilities, equipment and/or fixtures for the furnishing of Utility Services and/or heating, cooling, ventilation, cable television, communication and security systems, or other services to more than one (1) Unit or to the Common Elements, together with related property and installations.
 - (b) An easement of support in every portion of a Unit which contributes to the support of the Building, other Units and/or any part of the Common Elements;
 - (c) The property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements, as well as any electronic gate system that may be installed on the Common Elements.
 - (d) Any other parts of the Condominium Property designated as Common Elements in this Declaration or the Act.
- 2.10 "Common Expenses" mean all expenses and assessments which are properly incurred by the Association for the Condominium.

- 2.11 "Common Surplus" means the excess of all receipts of the Association collected on behalf of the Condominium, (including, but not limited to, Assessments, rents, profits and revenues on account of the Common Elements) over the amount of Common Expenses.
- 2.12 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements which is appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.
- 2.13 "Condominium Property" means the land, and other personal property described in Sections 1.1 and 1.2 hereof, which are subjected to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with the Condominium subject to the limitations thereof and exclusions therefrom.
- 2.14 "County" means the County of Lee, State of Florida.
- 2.15 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.
- 2.16 "Developer" means BRIXTON DEVELOPMENT LLC, a Florida limited liability company, its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned. Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with specific portions of the Condominium. In the event of any partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis.
- 2.17 "Hancock Creek Covenants" means the Declaration of Covenants, Conditions and Restrictions for Hancock Creek South Center, as recorded in Book 3124, Pages 1528, *et seq.*, of the Official Records of Lee County, Florida, and all recorded exhibits thereto, as it and they may be amended from time to time.
- 2.18 "Improvements" mean all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including, but not limited to, the Building.
- 2.19 "Institutional First Mortgagee" means any lending institution which has acquired a first mortgage lien upon a Unit, including any of the following institutions: (a) any federal or state savings and loan association, building and loan association, or bank, insurance company, real estate or mortgage investment trust, pension fund, or a mortgage banking company doing business in the State of Florida; or (b) any "Secondary Mortgage Market Institution" including the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), the Government National Mortgage Association ("GNMA"), the Federal Housing Administration ("FHA"), the Veterans Administration ("VA") and such other Secondary Mortgage Market Institution as the Association shall hereafter approve in writing, which has acquired a first mortgage lien on a

Unit; or (c) any other lender generally recognized as an institutional lender which has acquired a first mortgage lien upon a Unit; or (d) the Developer holding a first mortgage on a Unit or Units; or (e) any and all investors or lenders, or the successors and assigns of such investors or lenders (herein referred to as "Lenders") which have loaned money to Developer to acquire, or construct improvements upon the Condominium Property and who have a first mortgage lien on all or a portion of the Condominium Property securing such a loan. A "Majority of Institutional First Mortgagees" shall mean and refer to Institutional First Mortgagees of Units by which greater than one-half (1/2) of the voting interests of Units subject to mortgages held by Institutional First Mortgagees are encumbered.

2.20 "Life Safety Systems" means those emergency lighting, audio and visual signals, security systems and sprinkler and/or smoke detection systems, if any, which have been installed in the Building, both within and without the Units, pursuant to the requirements of the applicable governmental authority having jurisdiction over same. All such Life Safety Systems, together with all conduits, wiring, electrical connections and systems related thereto, shall be Common Elements.

2.21 "Limited Common Elements" means those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit it or as otherwise expressly provided.

2.22 "Primary Institutional First Mortgagee" means the Institutional First Mortgagee which owns, at the relevant time, mortgages on Units securing a greater aggregate indebtedness than is owed to any other Institutional First Mortgagee.

2.23 "POA" means Hancock Creek South Center Property Owners Association, Inc., a Florida corporation not for profit, created as a mandatory membership association.

2.24 "POA Common Areas" means the real property owned or to be owned by the POA for the use and benefit of all owners of Lots or Units in Hancock Creek South Center, and all improvements thereon.

2.25 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.

2.26 "Unit Owner" or "Owner of a Unit" or "Owner" means the record Owner of a Condominium Parcel intended for residential uses.

2.27 "Utility Service" means and is intended to include, but not limited to, electric power, gas, telephone, hot and cold water, heating, air conditioning ventilation systems, garbage and sewage disposal.

3. **DESCRIPTION OF CONDOMINIUM.**

3.1 **Identification of Units.** The Land has constructed thereon five (5) Buildings, containing fifty-six (56) Units. Each such Unit is identified by a separate numerical designation. The designation of each of such Units is set forth on Exhibit "B" attached hereto. Exhibit "B" consists of a survey of the Land, a graphic description of the Improvements located thereon, including, but not limited to, the Buildings in which the Units are located, and a plot plan thereof. Said Exhibit "B", together with this Declaration, is sufficient in detail to identify the Common Elements and each Unit and their relative locations and dimensions. There shall pass with each Unit as appurtenances thereto (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use and assign such portion of the Common Elements as may be provided in this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in airspace which is vacated shall be terminated automatically; (d) membership in the Association with the full voting rights appurtenant thereto; and (e) other appurtenances as may be provided by this Declaration.

3.2 **Unit Boundaries.** Each Unit shall include that part of the Building containing the Unit that lies within the following boundaries:

(a) **Upper and Lower Boundaries.** The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries:

(i) **Upper Boundary:** The horizontal plane of the undecorated finished ceiling. In a Unit containing a room in which the ceiling is raised above the level of the ceiling in the rest of the Unit, the ceiling shall include the vertical or diagonal surface connecting the raised ceiling with the ceiling of the remaining portion of the Unit, and the upper boundary shall include the plane of the undecorated finished vertical or diagonal surface that joins the planes of the undecorated finished horizontal portions of the ceiling.

(ii) **Lower boundary:** The horizontal plane of the undecorated finished floor. In a Unit containing a room in which the floor is raised above the level of the floor in the rest of the Unit, the floor shall include the vertical or diagonal surface connecting the raised floor with the floor of the remaining portion of the Unit, and the lower boundary shall include the plane of the undecorated finished vertical or diagonal surface that joins the planes of the undecorated finished horizontal portions of the floor.

(iii) **Interior Divisions:** Except as provided in subsections (i) and (ii) above, no part of the floor of the middle or upper floor(s), ceiling of the middle or lower floor(s), stairwell adjoining floors or nonstructural interior walls shall be considered a boundary of the Unit.

(b) Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior surfaces of the walls bounding the Unit extended to their planar intersections with each other and with the upper and lower boundaries.

(c) Apertures. Where there are apertures in any boundary, including, but not limited to, windows, doors, bay windows, stationary windows and skylights, such boundaries shall be extended to include the interior unfinished surfaces of such apertures, including all frameworks thereof. Exterior surfaces made of glass or other transparent material, and all framing and casings therefor, shall be included in the boundaries of the Unit.

(d) Boundaries - Further Defined. The boundaries of the Unit shall not include all of those spaces and improvements lying beneath the undecorated and/or unfinished inner surfaces of the perimeter walls and floors, and those surfaces above the undecorated and/or inner surfaces of the ceilings of each Unit and, further, shall not include those spaces and improvements lying beneath the undecorated and unfinished inner surfaces of all interior bearing walls and/or bearing partitions and, further, shall exclude all pipes, ducts, wires, conduit and other facilities running through any interior wall or partition for Utility Services to other Units and/or for Common Elements. No part of the interior non-boundary walls within a Unit shall be considered a boundary of the Unit.

(e) Exceptions and Conflicts. In the case of any conflict between the boundaries of the Unit as above described and the dimensions of the Unit shown on Exhibit "B", the above provisions describing the boundary of a Unit shall control, it being the intention of this Declaration that the actual as-built boundaries of the Unit as above described shall control over erroneous dimensions contained in Exhibit "B" attached hereto, and in the event it shall appear that any dimension shown on Exhibit "B" attached hereto is erroneous, the Board of Directors or a majority of the voting interests of the Unit Owners shall have the right to amend the Declaration without a meeting to correct such survey, and any such amendment shall not require the joinder of any Institutional First Mortgagee so long as the purpose of the amendment is merely to correct an error and correctly describe the boundaries of a Unit. In the case of Unit boundaries not adequately described as provided above, the survey of the Units contained in Exhibit "B" shall control in determining the boundaries of a Unit. In the case of any conflict between the language of this Declaration describing the boundaries of any Unit, and in the language contained in Exhibit "B" describing the boundaries of a Unit, the language of this Declaration shall control.

3.3 Limited Common Elements. Each Unit may have, to the extent applicable and subject to the provisions of this Declaration, as Limited Common Elements appurtenant thereto:

(a) Patios, Balconies and Terraces. Any patio, balcony or terrace (and all improvements thereto and walls facing same) as to which direct and exclusive access shall be afforded to any particular Unit or Units to the exclusion of others shall be a Limited Common Element of such Unit(s).

(b) Storage Lockers. At the time of the conveyance of a Unit from the Developer, there shall be assigned to each Unit by the Developer the use of one (1) storage locker, which shall be a Limited Common Element of such Unit.

(c) Air Conditioning and Heating Systems. The air-conditioning and heating systems servicing a Unit are Limited Common Elements. Accordingly, the Unit Owner shall maintain, repair and replace, at his own expense, any portions of such system in need thereof including, but not limited to, filters, the compressor, condenser, motor, fan and related parts.

(d) Miscellaneous Areas, Equipment. Any area upon which is located equipment or fixtures (including air conditioning compressors) which are for the exclusive use of any particular Unit or Units and the equipment or fixtures themselves shall be Limited Common Elements of such Unit(s).

3.4 Easements. The following easements are hereby created (in addition to any easements created under the Act):

(a) Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

(b) Utility and Other Services; Drainage. Non-exclusive easements are reserved under, through, across and over the Condominium Property as may be required from time to time for utility, cable television, communications, satellite systems, Life Safety Systems and security systems, other services and drainage and water management in order to serve the Condominium. A Unit Owner shall do nothing within or outside their Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications and security systems, other service, or water management facilities or drainage facilities or the use of these easements. The Association shall have the irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair or replacement of any Common Elements, or Limited Common Elements, or of any portion of a Unit to be maintained by the Association pursuant to this Declaration, or as necessary to prevent damage to the Common Elements or to a Unit or Units.

A Unit Owner shall do nothing within or outside their Unit that interferes with or impairs, or may interfere with or impair, the provision of such utility, cable television, communications, satellite systems, Life Safety Systems, security systems, or other service or drainage facilities or the use of these easements. The Association shall have an irrevocable right of access to each Unit during reasonable

hours when necessary for the maintenance, repair, replacement of any of the pipes, wires, ducts, vents, cables, conduits and other utility, cable television, communications, satellite systems, security systems, Life Safety Systems, service and drainage facilities which are Common Elements and any other Common Elements contained in the Unit or elsewhere in the Condominium Property, or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units. Drainage systems on the Condominium Property, if any, shall be maintained continuously in good condition by the Association and easements are granted hereby over all Condominium Parcels in favor of all Owners and the Association with respect thereto; provided that such right of easement shall not unreasonably interfere with the Unit Owner's permitted use of his Unit. Such easements shall be for the use and benefit of Owners, Institutional Mortgagees, or occupants, and those claiming, by, through or under the aforesaid. With respect to any easements set forth herein, all such easements shall be for the use and benefit of Owners, Institutional Mortgagees or Occupants, and those claiming by, through or under the aforesaid.

(c) Encroachments. If (a) any portion of the Common Elements encroaches upon any Unit; (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements; (c) any encroachment shall hereafter occur as a result of (i) construction of the Improvements; (ii) settling or shifting of the Improvements; (iii) any alteration or repair to the Common Elements made by or with the consent of the Association or Developer, as appropriate, or (iv) any repair or restoration of the Improvements (or any portion thereof) or any Unit after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements; then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of same so long as the improvements shall stand.

(d) Ingress and Egress and Emergency Access. A non-exclusive easement in favor of each Unit Owner and resident, their guests and invitees, and emergency personnel shall exist for pedestrian traffic over, through and across sidewalks, streets, paths, walks, and other portions of the Common Elements as from time to time may be intended and designated for such purpose and use; and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as from time to time may be paved and intended for such purposes. None of the easements specified in this subparagraph (d) shall be encumbered by a leasehold or lien other than those on the Condominium Parcels. Any such lien encumbering such easements (other than those on Condominium Parcels) automatically shall be subordinate to the rights of Unit Owners and the Association with respect to such easements.

(e) Maintenance. Prior to turnover of control of the Association to Unit Owners other than Developer, the Association's Board, through its designees, contractors, successors and assigns shall have the right, in its sole discretion from time to time, to

enter the Condominium Property and take all other action necessary or convenient for the purpose of maintenance and repair of the Common Elements or any portion of a Unit to be maintained by the Association pursuant to the terms of this Declaration. The Association may authorize the Developer to repair, replace and maintain portions of the Condominium Property if the Association cannot do so or if it determines that the Developer is otherwise required to do so.

(f) Sales Activity. For as long as there are any unsold Units or Units leased to the Developer, the Developer, its designees, nominees, successors and assigns, and the Developer, its designees, nominees, successors and assigns, shall have the right to use any such Units and parts of the Common Elements for model apartments and sales and construction offices, to show model Units and use Units as guest suites and to show and use the Common Elements to prospective purchasers and tenants of Units, and to erect on the Condominium Property signs and other promotional material to advertise Units for sale or lease.

(g) Cable TV. The Developer reserves unto itself, its successors, assigns, contractors, designees and nominees, (i) ownership of any closed circuit, master antenna, community antenna or cable television system or the like (including any and all related conduits, wires, amplifiers, antennas, towers and other apparatus and equipment) which it (or one of its successors, assigns, designees or nominees) installs in part or whole on the Condominium Property (any such system and its related apparatus and equipment being hereinafter referred to as the "CATV System"), (ii) a perpetual easement over, through and across the Condominium Property for the installation, servicing, maintenance, repair, replacement and removal of the CATV System or any part thereof, (iii) the right to connect the CATV System to whatever receiving source the owner of the CATV System deems appropriate, and (iv) the right, but not the obligation, to provide (or cause to be provided) mandatory or non-mandatory services to Units through the CATV System (and related, ancillary services to Units, including, but not limited to, security-related services) at charges not to exceed those normally paid for like services by residents of single-family homes or condominium units within the general vicinity of the Condominium, and to retain or assign all such charges.

(h) Additional Easements. The Developer (for so long as it retains control of the Association) and the Association, on its behalf and on behalf of all Unit Owners (each of whom hereby appoints the Developer and the Association as its attorney-in-fact for this purpose), each shall have the right to grant such additional general ("blanket") and specific electric, gas or other utility, cable television, security systems, communications or service easements (and appropriate bills of sale for equipment, conduits, pipes, lines and similar installations pertaining thereto), or relocate any such existing easements or drainage facilities or water management facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of the Improvements, or any

portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration, provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the reasonable use of the Units for dwelling purposes.

4. **RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS.** The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and the exclusive right to use all appropriate appurtenant Limited Common Elements, shall not be separated therefrom and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

5. **OWNERSHIP OF COMMON ELEMENTS AND COMMON SURPLUS AND SHARE OF COMMON EXPENSES; VOTING RIGHTS.**

5.1 **Fractional Ownership and Shares.** The voting rights of the Owner of each Unit shall be 1/56th (one voting interest per Unit). The sharing of Common Expenses and ownership of Common Elements and Common Surplus shall be on a 1/56th basis.

5.2 **Voting.** Each Unit shall be entitled to one (1) vote to be cast by its Owner in accordance with the provisions of the respective By-Laws and Articles of Incorporation of the Association. Each Unit Owner shall be a member of the Association.

6. **AMENDMENTS.** Except as elsewhere provided herein, amendments to this Declaration may be effectuated as follows:

6.1 **By the Association.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-third (1/3) of the Units in the Condominium. Directors and members may express their approval by voting in person at the meeting in which the amendment is to be considered, or by limited proxy, provided that such limited proxy is delivered to the secretary at or prior to the meeting. Except as elsewhere provided, approvals must be by affirmative vote of:

(a) Unit Owners owning in excess of 50% of the Units in the Condominium and by not less than 66 2/3% of the Board of Directors of the Association; or

(b) Unit Owners owning in excess of 66-2/3% of the Units in the Condominium.

6.2 **Amendments Prior to Turnover.** During the period of Developer control of the Association, the Declaration, Articles of Incorporation or the By-Laws of the Association

may be amended to correct an omission or error, or effect any other amendment without obtaining approval of the voting interests of the Association except that this procedure for amendment may not be used if such an amendment would materially and adversely affect substantial property rights of Unit Owners, unless the affected Unit Owners consent in writing.

6.3 **Execution and Recording.** An amendment, other than amendments made by the Developer alone pursuant to the Act or this Declaration, shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed and acknowledged with the same formalities required for the execution of a deed. Amendments by the Developer must be evidenced by a similar certificate executed by the Developer alone. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the public records of Lee County, Florida.

6.4 **Proviso.** Unless otherwise provided specifically to the contrary in this Declaration, no amendment shall change the configuration or size of any Unit in any material fashion, materially alter or modify the appurtenances to any Unit, or change the proportion or percentage by which the Owner of a Condominium Parcel shares the Common Expenses and owns the Common Surplus, unless the record Owner(s) thereof, and all record owners of mortgages or other liens on the Unit, shall join in the execution of the amendment and the amendment is otherwise approved by in excess of 75% of the voting interests of Unit Owners. No amendment may be adopted which would materially affect the rights or interests of mortgagees of Units, without the consent of said mortgagees which are materially affected in each instance, which consent may not be unreasonably withheld.

No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text and underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

7. **MAINTENANCE.**

7.1 **Units and Limited Common Elements.** All maintenance, repairs and replacements of, in or to any Unit and Limited Common Elements appurtenant thereto, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the interior side of the entrance door and all other doors within or affording access to a Unit, and the electrical (including wiring), plumbing (including fixtures and connections), heating and air-conditioning equipment, fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and

the entire interior of the Unit lying within the boundaries of the Unit or the Limited Common Elements or other property belonging to the Unit Owner, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. The Unit Owner shall also maintain, repair and replace, at his, her or its sole cost and expense, all portions of any hurricane shutters that the Unit Owner may install upon written approval of the Association, including such portion of the Common Elements, if any, to which the hurricane shutters are attached (in the event the hurricane shutters are attached to any Common Element, the Common Element to which the hurricane shutters are attached shall become a Limited Common Element upon the attachment of said hurricane shutters, whereupon the maintenance, repair and replacement of such Limited Common Element shall be the responsibility of the Unit Owner), which the Unit Owner installs, which cost and expense shall also include the cost and expense of removal and/or reinstallation by the Association of the hurricane shutters if necessary or required in order for the Association to maintain, repair, replace or protect the Common Elements or Association Property.

7.2 Common Elements. Except to the extent (i) expressly provided to the contrary herein (i.e., as to Limited Common Elements), or (ii) proceeds of insurance are made available therefor, all maintenance, repairs and replacements in or to the Common Elements, including but not limited to the Life Safety Systems (other than Limited Common Elements as provided above) shall be performed by the Association and the cost and expense thereof shall be charged to all Unit Owners as a Common Expense, including but not limited to the perimeter wall of the Condominium property including the entranceway doors except to the extent arising from or necessitated by the negligence, misuse or neglect of specific Unit Owners, in which case such cost and expense shall be paid solely by such Unit Owner(s).

7.3 Specific Unit Owner Responsibility. The obligation to maintain and repair any equipment, fixtures or other items of property which service a particular Unit or Units and are Limited Common Elements thereof shall be the responsibility of the applicable Unit Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Units, provided said equipment, fixtures or other items are Limited Common Elements. Where a Limited Common Element consists of a terrace (more particularly without limitation balcony, court or patio), the Unit Owner who has the right to the exclusive use of said terrace, balcony, court or patio shall be responsible for the maintenance, care and preservation of the paint and surface of the interior parapet walls, including the floor and ceiling within said area, if any, and the fixed and/or sliding glass door(s) in or on other portions of the entrance way(s) of said area, if any, and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs, if any. Notwithstanding the foregoing, the Association may act on the Unit Owner's request to provide maintenance for the Limited Common Elements provided that the costs and charges incurred for said maintenance to each specific Unit for which the maintenance and repairs were performed be borne by the Unit Owner, that portion of the costs and charges allocable to each such Unit. The Association shall have the right to collect such costs and charges as elsewhere provided, and shall enforce its rights in accordance with this Declaration and applicable law.

8. **ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY THE ASSOCIATION.**

Whenever in the judgment of the Board of Directors, the Common Elements, or any part thereof, shall require material alterations or substantial additions to the Common Elements or to real property that is owned by the Association (as distinguished from maintenance, repairs and replacements) costing in excess of \$10,000 in the aggregate in any calendar year, the Association may proceed with such additions or alterations only if the making of such additions or alterations shall have been approved by a majority of the Units represented at a meeting at which a quorum is attained. Any such additions, alterations or improvements to such Common Elements, or any part thereof, costing in the aggregate \$10,000 or less in a calendar year may be made by the Association without approval of the Unit Owners. The cost and expense of any such additions or alterations to such Common Elements shall constitute a part of the Common Expenses and shall be assessed to the Unit Owners as Common Expenses. For purposes of this section, "aggregate in any calendar year" shall include the total debt incurred in that year, if such debt is incurred to perform the above stated purposes, regardless of whether the repayment of any part of that debt is made beyond that year.

9. **ADDITIONS, ALTERATIONS OR IMPROVEMENTS BY UNIT OWNER.**

9.1 **Consent of the Board of Directors.** No Unit Owner shall make any addition, alteration or improvement in or to the Common Elements, the Unit or any Limited Common Element, including, but not limited to, the installation or upgrade of walkways, awnings, hurricane shutters, hot tubs or trellises in yards, balconies, terraces and patio areas, without the prior written consent of the Board of Directors of the Association. The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement in such Unit Owner's Unit or Limited Common Elements within thirty (30) days after such request and all additional information requested is received, and the failure to do so within the stipulated time shall constitute the Board's consent. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, and with any conditions imposed by the Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors of the Association, such approval may not be revoked. In the event any such addition, alteration or improvement made by a Unit Owner is required to be removed, altered or destroyed for the Association to gain access to a Common Element or to fulfill any of its maintenance obligations as provided in this Declaration or in the Act, the Association shall be obligated to restore the area only to the quality and grade of its condition as originally constructed by the Developer. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property, or any injury to persons, and expenses arising therefrom, and shall be solely responsible for the maintenance, repair and insurance thereof from and after that date of installation of construction thereof as may be required by the Association.

With regard to the installation of hurricane shutters, the Board of Directors shall adopt hurricane shutter specifications for the Building, which specifications shall comply with the applicable governmental building code, and which shall include, but not be limited to, color, style and other factors deemed relevant by the Board of Directors.

9.2 **Life Safety Systems.** No Unit Owner shall make any additions, alterations or improvements to the Life Safety Systems. The Association shall not make any additions, alterations or improvements to the Life Safety Systems without the prior consent of the appropriate governmental authority if so required. No lock, padlock, hasp, bar, chain or other device or combination thereof shall be installed or maintained at any time on or in connection with any door on which panic hardware or fire exit hardware is required. Stairwell identification and emergency signage, if any, shall not be altered or removed by any Unit Owner whatsoever or by the Association without the Association obtaining the consent of the applicable governmental authority having jurisdiction over same. Locks on unit service entry doors shall be of the "non-self locking" type and must require the use of a key to lock from the stairwell side. All means of egress must permit unobstructed travel at all times. No barrier, including but not limited to personalty, shall impede the free movement of ingress and egress.

9.3 **Additions, Alterations or Improvements by Developer.** The foregoing restrictions of this Section 9 shall not apply to Developer owned Units. The Developer shall have the additional right, without the consent or approval of the Board of Directors or other Unit Owners, to (i) make alterations, additions or improvements, structural and non-structural, interior and exterior, ordinary and extraordinary, in, to and upon any Unit owned by it and Limited Common Elements appurtenant thereto (including, without limitation, the removal of walls, floors, ceilings and other structural portions of the Improvements); and (ii) expand, alter or add to all or any part of the recreational facilities. Any amendment to this Declaration required by a change made by the Developer pursuant to this Section 9.3 that is deemed to be a material amendment shall be adopted in accordance with Section 6, provided, however, that the exercise of any right by Developer pursuant to Clause (ii) above shall not be deemed a Material Amendment.

10. **CHANGES IN DEVELOPER-OWNED UNITS.** The Developer reserves the right, without Unit Owner approval, to make alterations or improvements in the interior design or layout of any Developer owned units; provided, however, that the percentage interest in the Common Elements and share of the Common Surplus and Common Expenses of any Units shall not be changed by reason thereof.

11. **OPERATION OF THE CONDOMINIUM BY THE ASSOCIATION; POWERS AND DUTIES.**

11.1 **Powers and Duties.** The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Articles of Incorporation and By-Laws of the Association (respectively, Exhibits "C" and "D" annexed hereto and made a part hereof), as amended from time to time. In addition, the Association shall have the powers and duties set forth in the Act, as

well as all powers and duties granted to or imposed upon it by this Declaration, including without limitation:

- (a) The irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair or replacement of any Common Elements, or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.
- (b) The power to make and collect Assessments and other charges against Unit Owners and to regulate, administer, lease, maintain, repair and replace the Common Elements.
- (c) The power to acquire title to property upon the vote of a majority of all the voting interests of the Units (for the purchase of Units at a foreclosure sale no Unit Owner approval is required); to make and collect Assessments and other charges against Unit Owners and to otherwise hold, regulate, administer, convey, lease, maintain, repair, replace and mortgage the Association Property, including the right to grant, modify or move easements which are part of or cross the Common Elements or Association Property.
- (d) The duty to maintain accounting records according to good accounting practices, which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times upon prior request.
- (e) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent (who may be an affiliate of the Developer) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of Common Elements with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Condominium Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (f) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefor mortgages and security interests in property owned by the Association, if any, provided that such actions are approved by a majority of the entire membership of the Board of Directors and a majority of the Units represented at a meeting at which a quorum has been attained, or by such greater percentage of the Board or Unit Owners as may be specified in the By-Laws with respect to certain borrowing, provided further that no such action shall be permitted while the Developer owns any Unit without the prior written consent of the Developer.

(g) The power to adopt and amend rules and regulations concerning the details of the operation and use of the Condominium Property.

(h) The power to charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner being granted, by the Association, a right to such exclusive use.

(i) All of the powers which a corporation not for profit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association or the terms and provisions of this Declaration, and/or exhibits attached hereto, this Declaration shall take precedence over the Articles of Incorporation, By-Laws and applicable rules and regulations; the Articles of Incorporation shall take precedence over the By-Laws and applicable rules and regulations; and the By-Laws shall take precedence over applicable rules and regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

11.2 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than for the cost of maintenance and repair, caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant to Section 9.1 hereof. Further, the Association shall not be liable to any Unit Owner, lessee, guest or invitee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where (i) such insurance is not required hereby or (ii) the Association could not obtain such insurance at reasonable costs or upon reasonable terms.

11.3 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.

11.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.

11.5 **Acts of the Association.** Unless the approval or action of Units and/or a certain specific percentage of the Board of Directors of the Association, is specifically required in this Declaration, the Articles of Incorporation or By-Laws of the Association, applicable rules and regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution. When an approval or action of the Association is permitted to be given or taken hereunder or thereunder, such action or approval may be conditioned in any manner the Association deems appropriate or the Association may refuse to take or give such action or approval without the necessity of establishing the reasonableness of such conditions or refusal.

11.6 **Limitation upon Action of Association.** The Association shall not commence any legal proceedings on its behalf or on behalf of any or all Unit Owners against the Developer without the prior written consent of at least 75% percent of all Unit Owners other than the Developer. Prior to instituting any such legal proceeding, the Association shall provide the Developer with the written consent of the Unit Owners as referenced above at least thirty (30) days before initiating any such legal proceedings against the Developer.

12. **DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS THEREFOR.** The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of this Declaration and the By-Laws. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget on which such Assessments are based to all Unit Owners and (if requested in writing) to their respective mortgagees. The Common Expenses shall include the expenses of and reserves for (if required by law) the operation, maintenance, repair and replacement of the Common Elements, cost of providing a bulk rate cable television service, costs of carrying out the powers and duties of the Association and any other expenses designated as Common Expenses by the Act, this Declaration, the Articles or By-Laws of the Association, applicable rules and regulations or by the Association. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the By-Laws.

13. **COLLECTION OF ASSESSMENTS.**

13.1 **Liability for Assessments.** A Unit Owner, regardless of how title has been acquired, including by purchase at a foreclosure sale, or by deed in lieu of foreclosure, shall be liable for all Assessments which come due while he is the Unit Owner. Additionally, a Unit Owner is jointly and severally liable with the previous Owner for all unpaid Assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by the abandonment of the Unit for which the Assessments are made or otherwise.

13.2 **Default in Payment of Assessments for Common Expenses.** Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. The Association has a lien on each Condominium Parcel to secure the payment of Assessments. Except as otherwise provided herein, the lien is effective as of the date of the recording of this Declaration and shall be evidenced by the recording of a claim of lien in the Public Records of the County, stating the description of the Condominium Parcel, the name and address of the Association, the name of the record Owner, the amount due and the due dates. It must be executed and acknowledged by an officer or authorized agent of the Association. The claim of lien shall not be released until all sums secured by it (or such other amount as to which the Association shall agree by way of settlement) have been fully paid or until it is barred by law. The claim of lien shall secure (whether or not stated therein) all unpaid assessments, which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a certificate of title, as well as interest and all reasonable costs and attorney's fees incurred by the Association, incident to the collection process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien in recordable form. The Association may bring an action in its name to foreclose a lien for unpaid Assessments in the manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien.

The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgement for unpaid assessments.

As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Unit Owner, the Association may declare the next quarterly installment of assessments to be accelerated (or if a claim of lien has been filed, the Association may accelerate to the maximum extent as is permitted by the Act), and such shall thereupon be immediately due and payable. In the event the amount of such installments changes during the period for which Assessments were accelerated, the Unit Owner or the Association, as appropriate, shall be obligated to pay or reimburse to the other the amount of increase or decrease within ten (10) days of same taking effect.

13.3 Notice of Intention to Foreclose Lien. No foreclosure judgment may be entered until at least thirty (30) days after the Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid Assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed, and if the unpaid Assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorney's fees or costs. The notice must be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return receipt requested, addressed to the Unit Owner at the last known address, and upon such mailing, the notice shall be deemed to have been given. If after diligent search and inquiry the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the court may proceed with the foreclosure action and may award attorney's fees and costs as permitted by law. The notice requirements of this subsection are satisfied if the Unit Owner records a Notice of Contest of Lien as provided in the Act.

13.4 Appointment of Receiver to Collect Rental. If the Unit Owner remains in possession of the Unit after a foreclosure judgement has been entered, the court, in its discretion, may require the Unit Owner to pay a reasonable rental for the Unit. If the Unit is rented or leased to anyone during the pendency of the foreclosure action, the Association is entitled to the appointment of a receiver to collect the rent. The expenses of the receiver shall be paid by the party which does not prevail in the foreclosure action.

13.5 Institutional First Mortgagee. An Institutional First Mortgagee acquiring title to a Condominium Parcel as a result of foreclosure or a deed in lieu of foreclosure, may not during the period of its ownership of such parcel, whether or not such parcel is occupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership. The liability of an Institutional First Mortgagee or its successor or assignees who acquire title to the Unit by foreclosure of its mortgage, or as a result of a deed given in lieu of foreclosure for the unpaid Assessments that became due prior to the Institutional First Mortgagee's acquisition of title, is limited to the lesser of:

- (a) The Unit's unpaid Common Expenses and regular periodic Assessments which accrued or came due during the six (6) months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or
- (b) One percent (1%) of the original mortgage debt. The provisions of this paragraph shall not apply unless the Institutional First Mortgagee joined the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the Institutional First Mortgagee.

The person acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the

Association to record a claim of lien against the Condominium Parcel and proceed in the same manner as provided in this section for the collection of unpaid Assessments. If any unpaid share of Common Expenses or Assessments or other charges is extinguished by foreclosure or by a deed in lieu of foreclosure thereof, the unpaid share of Common Expenses or Assessments are Common Expenses collectible from all of the Unit Owners, including such acquirer, and such acquirer's successors and assigns.

13.6 Condominium Working Capital Fund. A contribution to the working capital fund, in the sum of two times the monthly Assessment amount, shall be payable to the Association at the time of the initial closing on each Unit in the Condominium. This contribution is not to be considered as advance maintenance payments or funds of the Association, but rather as a purchaser's share of the initial expenses of the Condominium itself, such as advance insurance premiums, other prepaid premiums, rentals, utility deposits, charges for service contracts, permits and licenses. In addition to the above, the Condominium working capital fund may be used for the purposes of emergency needs, initial items and non-recurring capital expenses. Developer is entitled to be reimbursed by the Association for any such sums advanced by it out of Assessments paid by Unit Owners or by way of a credit against obligations Developer may have to pay to the Association.

13.7 Certificate of Unpaid Assessments. Within fifteen (15) days after receiving a written request thereof from a Unit Owner purchaser or mortgagee of a Unit, the Association shall provide a certificate signed by an officer or agent of the Association stating all assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

13.8 Installments. Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Association from time to time.

13.9 Use of Common Elements. The Association shall not charge any fee against a Unit Owner for the use of the Common Elements or Association Property unless otherwise provided for in this Declaration or by a majority vote of the Association or unless the charges relate to expenses incurred by a Unit Owner having exclusive use of the Common Elements or Association Property.

14. INSURANCE. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the Association Property, the Common Elements and the Condominium Property as is required by the Act. Insurance covering the Condominium Property and the Association Property shall be governed by the following provisions:

14.1 Purchase, Custody and Payment.

(a) Purchase. All insurance policies described herein covering portions of the Condominium Property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

(b) Approval. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee (if appointed) hereinafter described shall be subject to the approval of the Primary Institutional First Mortgagee in the first instance.

(c) Named Insured. The named insured shall be the Association, individually, and as agent for Owners of Units covered by the policy, without naming them, and as agent for their mortgagees, without naming them. The Unit Owners and their mortgagees shall be deemed additional insureds.

(d) Custody of Policies and Payment of Proceeds. All policies shall provide that payments for losses made by the insurer shall be paid to the Insurance Trustee (if appointed), and all policies and endorsements thereto shall be deposited with the Insurance Trustee (as hereinafter defined in Section 14.6) (if appointed).

(e) Copies to Mortgagees. One copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, shall, upon written request, be furnished by the Association to each Institutional First Mortgagee who holds a mortgage upon a Unit covered by the policy. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy, or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, as appropriate.

(f) Personal Property and Liability. Except as specifically provided herein or by the Act, the Association shall not be responsible to Unit Owners to obtain insurance coverage upon the property lying within the boundaries of their Unit, including, but not limited to, their personal property, and for their personal liability and living expense and for any other risks not otherwise insured in accordance herewith.

14.2 Coverage. The Association shall use its best efforts to maintain insurance covering the following:

(a) Casualty. The Building (including all fixtures, installations or additions comprising that part of the Building within the boundaries of the Units and required by the Act to be insured under the Association's policy(ies), but excluding all furniture, furnishings, floor coverings, wall coverings and ceiling coverings or other personal property owned, supplied or installed by Unit Owners or tenants of Unit Owners; or, the following equipment, if located within a Unit and the Unit Owner is required to replace such equipment: electrical fixtures, appliances, air conditioner or heating equipment, water heaters, or built-in cabinets) and all improvements located on the Common Elements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Elements or owned by the Association (collectively the "Insured Property") shall be insured in an amount not less than 100% of the full insurable replacement value thereof, so long as such replacement cost insurance is available, excluding foundation and excavation costs. Such policies may contain reasonable deductible

provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

- (i) Loss or Damage by Fire and Other Hazards including windstorm covered by a standard extended coverage endorsement(s); and
- (ii) Such Other Risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.
- (b) Liability. Comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Insured Property or adjoining driveways and walkways, or any work, matters or things related to the Insured Property, with such coverage as shall be required by the Board of Directors of the Association, but with combined single limit liability of not less than \$1,000,000 for each accident or occurrence, \$300,000 per person and \$100,000 property damage, and with a cross liability endorsement to cover liabilities of the Unit Owners as a group to any Unit Owner, and vice versa.
- (c) Worker's Compensation and other mandatory insurance, when applicable.
- (d) Flood Insurance if required by the Primary Institutional First Mortgagees or if the Association so elects.
- (e) Fidelity Insurance, covering all directors, officers, employees and management agents of the Association who control or disburse Association funds, such insurance to be in an amount to cover the maximum funds that will be in the custody of the Association or its management agent at any one time, or as required by the Act.
- (f) Association Property. Appropriate additional policy provisions, policies or endorsements extending the applicable portions of the coverage described above to all Association Property, where such coverage is available.
- (g) Such Other Insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) subrogation against the Association and against the Unit Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of co-insurance or if other insurance carriers have issued coverage upon the same risk, and (iii) avoid liability for a loss that is caused by an act of the Board of Directors of the Association, a member of the Board of Directors of the Association, one or more Unit Owners or as a result of contractual undertakings. Additionally, each policy shall provide that any insurance trust agreement

will be recognized, that the insurance provided shall not be prejudiced by any act or omissions of individual Unit Owners that are not under the control of the Association, and that the policy shall be primary, even if a Unit Owner has other insurance that covers the same loss.

14.3 **Additional Provisions.** All policies of physical damage insurance shall provide that such policies may not be cancelled or substantially modified without at least forty-five days' prior written notice of all of the named insureds, including all Institutional First Mortgagees of Units. Prior to obtaining any policy of casualty insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the Insured Property (exclusive of foundations), without deduction for depreciation, for the purpose of determining the amount of insurance to be effected pursuant to this Section.

14.4 **Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense. Premiums may be financed in such manner as the Board of Directors deems appropriate.

14.5 **Unit Owner Coverage.** Each Unit Owner shall obtain and maintain at all times, individual casualty and general liability policies insuring the property lying within the boundaries of their Unit and for their personal liability arising in the use of their own Unit and other areas of the Common Elements for which they have exclusive use. The Association may require each Unit Owner to provide it with a copy of a binder, a policy, or other proof satisfactory to the Association of said insurance coverage.

14.6 **Insurance Trustee; Share of Proceeds.** All insurance policies obtained by or on behalf of the Association shall be for the benefit of the Association, the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee which may, but need not, be designated by the Board of Directors. References herein to the Insurance Trustee shall be deemed to apply to the Board of Directors if it elects to serve such functions pursuant to Section 14.11 hereof. The Insurance Trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Unit Owners and their respective mortgagees in the following shares, but shares need not be set forth on the records of the Insurance Trustee:

(a) **Insured Property.** Proceeds on account of damage to the Insured Property shall be held in undivided shares for each Unit Owner, such shares being the same as the undivided shares in the Common Elements appurtenant to each Unit, provided that if the Insured Property so damaged includes property lying within the boundaries of specific Units, that portion of the proceeds allocable to such property shall be held as if that portion of the Insured Property were Optional Property as described in paragraph (b) below.

(b) Optional Property. Proceeds on account of damage solely to Units and/or certain portions or all of the contents thereof not included in the Insured Property (all as determined by the Association in its sole discretion) (collectively the "Optional Property"), if any is collected by reason of optional insurance which the Association elects to carry thereon (as contemplated herein), shall be held for the benefit of Owners of Units or other portions of the Optional Property damaged in proportion to the cost of repairing the damage suffered by each such affected Owner, which cost and allocation shall be determined in the sole discretion of the Association.

(c) Mortgagees. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds, except for actual distributions thereof made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

14.7 Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners thereof in the following manner:

(a) Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision shall be made therefor.

(b) Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners thereof, remittances to Unit Owners and their Institutional First Mortgagees being payable jointly to them.

(c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the beneficial owners as provided in Section 14.6 above, and distributed first to all Institutional First Mortgagees in an amount sufficient to pay off their mortgages, and the balance, if any, to the beneficial owners.

(d) Certificate. In making distributions to Unit Owners and their Institutional First Mortgagees, the Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary as to the names of the Unit Owners and their mortgagees and their respective shares of the distribution.

14.8 Association as Agent. The Association is hereby irrevocably appointed as agent and attorney-in-fact for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust

all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

14.9 **Unit Owners' Personal Coverage.** Unless the Association elects otherwise, the insurance purchased by the Association shall not cover claims against an Owner due to accidents occurring within his Unit, nor casualty or theft loss to the contents of an Owner's Unit. It shall be the obligation of the individual Unit Owner, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance carried by the Association.

14.10 **Benefit of Mortgagees.** Certain provisions in this Article 14 entitled "Insurance" are for the benefit of mortgagees of Units and may be enforced by such mortgagees.

14.11 **Insurance Trustee Optional.** The Board of Directors of the Association shall have the option in its discretion of appointing an Insurance Trustee hereunder. If the Association fails or elects not to appoint such Trustee, the Association will perform directly all obligations imposed upon such Trustee by this Declaration. Fees and expenses of any Insurance Trustee are Common Expenses.

14.12 **Presumption as to Damaged Property.** In the event of a dispute or lack of certainty as to whether damaged property constitutes a Unit(s) or Common Elements, such property shall be presumed to be Common Elements.

14.13 **Unit Owner Damage.** The cost to repair any damage caused by a Unit Owner to a Common Element or other property owned by the Association, or to a Unit which is not covered by insurance, including lack of coverage due to a deductible, shall be the responsibility of and shall be paid by said Unit Owner causing the damage. The cost of any damage to a Unit not covered by insurance caused from a source outside the Unit, which source of damage is under the control and management of the Association, and said damage is through no negligence on the part of the Association, shall be borne by the Unit Owner sustaining the damage.

15. **RECONSTRUCTION OR REPAIR AFTER FIRE OR OTHER CASUALTY.**

15.1 **Determination to Reconstruct or Repair.** In the event of damage to or destruction of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) and the Insurance Trustee (if appointed) shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

Notwithstanding the above, if 75% or more of the Insured Property (and the Optional Property, if insurance has been obtained by the Association with respect thereto) is substantially damaged or destroyed and if Unit Owners owning 80% of the applicable interests in the Common Elements duly and promptly resolve not to proceed with the repair

or restoration thereof and a Majority of Institutional Mortgagees approve such resolution, the Condominium Property will not be repaired and shall be subject to an action for partition instituted by the Association, any Unit Owner, mortgagee or lienor, as if the Condominium Property were owned in common, in which event the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Unit Owners in proportion to their respective interests in the Common Elements (with respect to proceeds held for damage to the Insured Property other than that portion of the Insured Property lying within the Boundaries of the Unit), and among affected Unit Owners in proportion to the damage suffered by each such affected Unit Owner, as determined in the sole discretion of the Association (with respect to proceeds held for damage to the Optional Property, if any, and/or that portion of the Insured Property lying within the boundaries of the Unit); provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such fund all mortgages and liens on his Unit in the order of priority of such mortgages and liens.

Whenever in this Section the words "promptly repair" are used, it shall mean that repairs are to begin not more than sixty (60) days from the date that the Insurance Trustee (if appointed) notifies the Board of Directors and Unit Owners that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work, or not more than ninety (90) days after the Insurance Trustee (if appointed) notifies the Board of Directors and the Unit Owners that such proceeds of insurance are insufficient to pay the estimated costs of such work. The Insurance Trustee (if appointed) may rely upon a certificate of the Association made by its President and Secretary to determine whether or not the damaged property is to be reconstructed or repaired.

15.2 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the plans and specifications for the original Improvements and then applicable building and other codes; or if not, then in accordance with the plans and specifications approved by the Board of Directors of the Association and then applicable building and other codes, and if the damaged property which is to be altered is the Building or the Optional Property, by the Owners of not less than 80% of the applicable interests in the Common Elements, as well as the Owners of all Units and other portions of the Optional Property (and their respective mortgagees), the plans for which are to be altered.

15.3 Special Responsibility. If the damage is only to those parts of the Optional Property for which the responsibility of maintenance and repair is that of the respective Unit Owners, then the Unit Owners shall be responsible for all necessary reconstruction and repair, which shall be effected promptly and in accordance with guidelines established by the Board of Directors (unless insurance proceeds are held by the Association with respect thereto by reason of the purchase of optional insurance thereon, in which case the Association shall have the responsibility to reconstruct and repair the damaged Optional Property, provided the respective Unit Owners shall be individually responsible for any amount by which the cost of such repair or reconstruction exceeds the insurance proceeds held for such repair or reconstruction on a Unit by Unit basis, as determined in the sole discretion of the Association). In all other instances, the responsibility for all necessary reconstruction and repair shall be that of the Association.

(a) Disbursement. The proceeds of insurance collected on account of a casualty, and the sums collected from Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:

(i) Association - Lesser Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is less than \$100,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association; provided, however, that upon request to the Insurance Trustee (if appointed) by an Institutional Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided below for the reconstruction and repair of major damage.

(ii) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair which are the responsibility of the Association is more than \$100,000, then the construction fund shall be disbursed in payment of such costs in the manner contemplated by subparagraph (i) above, but then only upon the further approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.

(iii) Unit Owners. If there is a balance of insurance proceeds after payment of all costs of reconstruction and repair that are the responsibility of the Association, this balance may be used by the Association to effect repairs to the Optional Property (if not insured or if under-insured), or may be distributed to Owners of the Optional Property who have the responsibility for reconstruction and repair thereof. The distribution shall be in the proportion that the estimated cost of reconstruction and repair of such damage to each affected Unit Owner bears to the total of such estimated costs to all affected Unit Owners, as determined by the Board; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs of repair for his portion of the Optional Property. All proceeds must be used to effect repairs to the Optional Property, and if insufficient to complete such repairs, the Owners shall pay the deficit with respect to their portion of the Optional Property and promptly effect the repairs. Any balance remaining after such repairs have been effected shall be distributed to the affected Unit Owners and their mortgagees jointly as elsewhere herein contemplated.

(iv) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs relating to the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the

fund in the manner elsewhere stated; except, however, that part of a distribution to an Owner which is not in excess of Assessments paid by such Owner into the construction fund shall not be made payable jointly to any mortgagee.

(v) Certificate. Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon Assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be made upon the order of the Association alone or upon the additional approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund, nor to determine whether surplus funds to be distributed are less than the Assessments paid by Owners, nor to determine the payees nor the amounts to be paid. The Insurance Trustee may rely upon a certificate of the Association, made by its President and Secretary, as to any or all of such matters and stating that the sums to be paid are due and properly payable, and stating the names of the payees and the amounts to be paid.

15.4 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Unit Owners in sufficient amounts to provide funds for the payment of such costs. Such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective shares in the Common Elements. Costs on account of damage to the Optional Property shall be charged to each Unit Owner in proportion to the cost of repairing the damage suffered by each Unit Owner thereof, as determined by the Association.

15.5 Benefit of Mortgagees. Certain provisions in this Article 15 are for the benefit of mortgagees of Units and may be enforced by any of them.

16. CONDEMNATION.

16.1 Deposit of Awards with Insurance Trustee. The taking of portions of the Condominium Property by the exercise of the power of eminent domain shall be deemed to be a casualty, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty and shall be deposited with the Insurance Trustee (if appointed). Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee (if appointed); and in the event of failure to do so, in the discretion of the Board of Directors of the Association, a special Assessment shall be made against a defaulting Unit Owner in the Amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

16.2 **Determination Whether to Continue Condominium.** Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty.

16.3 **Disbursement of Funds.** If the Condominium is terminated after condemnation, the proceeds of the awards and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Insurance Trustee (if appointed) after a casualty, or as elsewhere in this Article 16 specifically provided.

16.4 **Unit Reduced but Habitable.** If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion and discretion of the Association), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

(a) **Restoration of Unit.** The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the proceeds of the award, the additional funds required for restoration shall be charged against the Owner of the Unit. The Association shall have the right to collect and enforce such costs and expenses as elsewhere provided in accordance with this Declaration, pursuant to Article 13 and applicable law.

(b) **Distribution of Surplus.** The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, the remittance being made payable jointly to the Owner and such mortgagees.

(c) **Adjustment of Shares in Common Elements.** If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Common Elements and of the Common Expenses and Common Surplus appurtenant to the Unit shall be reduced by multiplying the percentage of the applicable Unit prior to reduction by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall be restated as follows:

(i) add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and

- (ii) divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

16.5 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sole opinion and discretion of the Association), the award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) Payment of Award. The awards shall be paid first to the applicable Institutional Mortgagees in amounts sufficient to pay off their mortgages in connection with each Unit which is not so habitable; second, to the Association for any due and unpaid Assessments; third, jointly to the affected Unit Owners and other mortgagees of their Units. In no event shall the total of such distributions in respect to a specific Unit exceed the market value of such Unit immediately prior to the taking. The balance, if any, shall be applied to repairing and replacing the Common Elements.
- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefor shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required for capital improvements to the Common Elements.
- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Unit Owners (and among reduced Units). This shall be effected by restating the shares of continuing Unit Owners as follows:
 - (i) add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by subsection 16.4(c) hereof (the "Percentage Balance"); and
 - (ii) divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by subsection 16.4(c) hereof, by the Percentage Balance.

The result of such division for each Unit shall be the adjusted percentage for such Unit.

(d) Assessments. If the balance of the award (after payments to the Unit Owners and such Owner's mortgagees as above provided) for the taking is not sufficient to alter the remaining portion of the Unit for use as a part of the Common Elements, the additional funds required for such purposes shall be raised by Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the taking. The Assessments shall be made in proportion to the applicable percentage shares of those Owners after all adjustments to such shares effected pursuant hereto by reason of the taking.

(e) Arbitration. If the market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and mortgagees of the Unit and the Association within 30 days after notice of a dispute by any affected party, such value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. A judgment upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction in accordance with the Florida Arbitration Code. The cost of arbitration proceedings shall be assessed against all Units Owners, including Owners who will not continue after the taking, in proportion to the applicable percentage shares of such Owners as they exist prior to the adjustments to such shares effected pursuant hereto by reason of the taking.

16.6 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner elsewhere required for capital improvements to the Common Elements. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares effected pursuant hereto by reason of the taking. If there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit.

16.7 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are effected by the taking shall be evidenced by an amendment to this Declaration of Condominium that is only required to be approved by, and executed upon the direction of, a majority of all Directors of the Association.

17. OCCUPANCY AND USE RESTRICTIONS. In order to provide for congenial occupancy of the Condominium Property and for the protection of the values of the Units, the use of the Condominium Property shall be restricted to and shall be in accordance with the following provisions:

17.1 **Occupancy.** Each Unit shall be used as a single family residence only, except as otherwise herein expressly provided. A Unit owned by an individual, corporation, partnership, trust or other fiduciary may only be occupied by the following persons, and such persons' families, provided that the Unit Owner or other permitted occupant must reside with his/her family: (i) the individual Unit Owner, (ii) an officer, director, stockholder, employee or designee of such corporation, (iii) a partner, employee or designee of such partnership, (iv) the fiduciary or beneficiary of such fiduciary, or (v) permitted occupants under an approved lease or sublease of the Unit (as described below), as the case may be. Occupants of an approved leased or subleased Unit must be the following persons, and such persons' families who reside with them: (i) an individual lessee or sublessee, (ii) an officer, director, stockholder, employee or designee of a corporate lessee or sublessee, (iii) a partner, employee or designee of a partnership lessee or sublessee, or (iv) a fiduciary or beneficiary of a fiduciary lessee or sublessee. Under no circumstances may more than one family reside in a Unit at one time. In no event shall occupancy (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. The Board of Directors shall have the power to authorize occupancy of a Unit by persons in addition to those set forth above. The provisions of this Section 17.1 shall not be applicable to Units used by the Developer for model apartments, sales offices or management services.

As used herein, "temporary occupancy" shall be deemed to mean occupancy of the Unit for less than 30 consecutive days.

As used herein, "family" or words of similar import shall be deemed to include a spouse, children, parents, brothers, sisters, grandchildren and other persons permanently cohabiting the Unit as or together with the Owner or permitted occupant thereof. As used herein, "guests" or words of similar import shall include only those persons who have a principal residence other than the Unit. Unless otherwise determined by the Board of Directors of the Association, a person(s) occupying a Unit for more than one (1) month without the Unit Owner or a member of his family being present shall not be deemed a guest but, rather, shall be deemed a lessee for purposes of this Declaration (regardless of whether a lease exists or rent is paid) and shall be subject to the provisions of this Declaration which apply to lessees. The purpose of this paragraph is to prohibit the circumvention of the provisions and intent of this Article 17 and the Board of Directors of the Association shall enforce, and the Unit Owners comply with, same with due regard for such purpose.

17.2 **Children.** Children shall be permitted to reside in Units, subject to the provisions of Section 17.1, above.

17.3 **Pets.** Except for fish, each Unit Owner (regardless of the number of Owners), may maintain up to a maximum of one (1) household pet in a Unit, to be limited to domestic dogs weighing twenty-five (25) pounds or less, or domestic cats, or caged birds, or one (1) fish tank not to exceed fifty-five (55) gallons, provided said pet is not kept, bred, or maintained for any commercial purpose and does not become a nuisance or annoyance to neighbors. Notwithstanding the foregoing, no Unit Owner may keep in or on the Condominium Property any dangerous breed dogs, including but not limited to pit bulls, rottweilers, or other breed which is deemed dangerous by the Board. All pets must be registered and

approved by the Board, which approval may be given or withheld in the sole discretion of the Board. Notwithstanding the foregoing, any installation of a fish tank exceeding fifty five (55) gallons must be submitted and approved by the Board of Directors of the Condominium Association and be compatible with the structural design of the Building. The Board of Directors of the Condominium may require the review by a structural engineer at the sole expense of the Unit Owner. Unit Owners must pick up all solid wastes of their pets and dispose of such waste appropriately. All pets, including cats, must be leashed at all times when outside the Unit. Pets may not be kept in the Common Elements. No reptiles or wildlife shall be kept in or on the Condominium Property (including Units). Without limiting the generality of Article 19 hereof, violation of the provisions of this Subsection shall entitle the Association to all of its rights and remedies, including, but not limited to, the right to fine Unit Owners (as provided in any applicable rules and regulations) and/or to require, through order of the Board, any pet to be permanently removed from the Condominium Property. No one other than a Unit Owner is permitted to keep any pet.

17.4 Alterations. Without limiting the generality of Section 9.1 hereof, no Unit Owner shall cause or allow improvements or changes to any Unit, Limited Common Elements appurtenant thereto or Common Elements, including, but not limited to, painting or other decorating of any nature, installing any electrical wiring, television antenna (except for video antennas, one meter or less in diameter, which are installed in compliance with the regulations enacted by the Federal Communications Commission), machinery, pools, whirlpools or saunas or air-conditioning units or in any manner changing the appearance of any portion of the Building, other than painting the interior of the Unit which is not visible to the outside of the Unit, without obtaining the prior written consent of the Association (in the manner specified in Section 9.1 hereof). Without limiting the generality of Section 9.1 hereof, no Unit Owner shall cause or allow any mechanical, electrical or structural alterations, improvements or changes to the interior of any Unit without submitting professional sealed and prepared plans to the Association and without obtaining the prior written consent of the Association (in the manner specified in Section 9.1 hereof).

17.5 Use of Common Elements. The Common Elements shall be used only for furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.

17.6 Nuisances. No nuisances (as defined by the Association) shall be allowed on the Condominium Property, nor shall any use or practice be allowed which is a source of annoyance to residents or occupants of Units or which interferes with the peaceful possession or proper use of the Condominium Property by its residents or occupants.

17.7 No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of the Condominium Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover, relating to any portion of the Condominium Property, shall be corrected by, and at the sole expense of, the party obligated to maintain or repair such portion of the Condominium Property, as elsewhere herein set forth. Notwithstanding

the foregoing and any provisions of this Declaration, the Articles of Incorporation or By-Laws, the Association shall not be liable to any person(s) for its failure to enforce the provisions of this Section 17.7.

17.8 Leases. No portion of a Unit (other than an entire Unit) may be rented. All leases shall be in writing, be approved by the Association and shall provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, applicable rules and regulations, or other applicable provisions of any agreement, document or instrument governing the Condominium. Leasing of Units shall also be subject to the prior written approval of the Association and the Association may deny permission to lease any Unit on any reasonable grounds the Association may find. No lease shall be approved for a term of less than thirty (30) days or one (1) month, whichever is less. The Association shall have the right to require of all tenants that they deposit in escrow with the Association a sum not to exceed the equivalent of one (1) month's rent which may be used by the Association to protect against damages and to repair any damage to the Common Elements or other property owned by the Association resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). Regardless of whether or not expressed in the applicable lease, all Unit Owners shall be jointly and severally liable with their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of his tenant(s) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all rules and regulations of the Association. All leases shall also comply with and be subject to the provisions of Article 18 hereof. This Section shall also apply to subleases and assignments and renewals of leases. No lease approved by the Association shall be amended or modified without the Association's approval.

The Association may charge a lease approval fee not in excess of any amount provided for in the Act (as it may be amended from time to time) as a maximum amount for such fees, but no fee shall be charged in connection with the approval of an amendment, modification or extension of a previously approved lease.

In making its determination as to whether to approve a lessee of a Unit, the Association shall not discriminate on the grounds of race, gender, religion, national origin, familial status or physical or mental handicap; provided, however, nothing herein shall be construed to require the Association to furnish an alternate lessee in the event the Association disapproves a lease or lessee.

17.9 Exterior Improvements; Landscaping. Without limiting the generality of Sections 9.1 or 17.4 hereof, no Unit Owner shall cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of the Building (including, but not limited to, awnings, signs, storm shutters, screens, window tinting, furniture, fixtures and equipment), nor to plant or grow any type of shrubbery, flower, tree, vine, grass or other plant life outside his Unit, without the prior written consent of the Association.

None of the balconies that are contiguous to Units and designated as Limited Common Elements under the Declaration may be enclosed, glassed in or screened in, nor may any Unit Owner alter the configurations of such balconies, or hang plants, draperies, screens or other items therefrom.

17.10 Unit Floor Coverings. All Units above the first floor shall always have the floors covered with wall-to-wall carpeting, except in kitchens, bathrooms, balconies, foyers, and utility or laundry rooms, except as provided below. Hard floor surfaces (tile, marble, wood, etc.) may only be installed upon prior written approval of the Board of Directors, which shall condition its approval on the Unit Owner's proof of the installation of appropriate sound-deadening material. Specifications for sound proofing of hard flooring must always be approved in writing by the Board or its representative prior to installation and then the installed sound proofing must be inspected and approved prior to installation of the hard flooring.

17.11 Effect on Developer; Association. The restrictions and limitations set forth in this Article 17, except Sections 17.1, 17.2, 17.3, and 17.8, shall not apply to the Developer, nor to Units owned by or leased to the Developer. The Association shall have the power (but not the obligation) to grant relief in particular circumstances from the provisions of specific restrictions contained in this Article 17 for good cause shown.

APPLICABLE WARRANTIES OF THE DEVELOPER, IF ANY, SHALL BE VOIDED BY VIOLATIONS OF THESE RESTRICTIONS AND REQUIREMENTS.

18. SELLING, LEASING AND MORTGAGING OF UNITS. No Unit Owner other than the Developer may sell his Unit except by complying with the following provisions:

18.1 Approval. Any Unit Owner who receives a bona fide offer to purchase or lease his Unit (such offer to purchase a Unit, is called an "Outside Offer," the party making any such Outside Offer is called an "Outside Offeror," and the Unit Owner to whom the Outside Offer is made is called an "Offeree Unit Owner"), which he has accepted shall give written notice to the Board of Directors of the receipt of such Outside Offer. Said notice shall also state the name and address of the Outside Offeror, the terms of the proposed transaction and such other information as the Board of Directors may reasonably require. The outside Offeror and/or Offeree Unit Owner shall submit in writing such further information with respect thereto as the Board of Directors may reasonably request. Not later than thirty (30) days after receipt of such notice, together with such further information as may have been requested, the Association, by sending written notice to such Offeree Unit Owner before the expiration of said thirty (30) day period, by certified and/or registered mail, shall approve or reject the purchase of such Unit upon terms and conditions as contained in the Outside Offer and as stated in the notice from the Offeree Unit Owner.

In the event the Association or its designee shall fail to respond to notice of an offer, such offer or, in the case of a lease, fail to reject the proposed lease as permitted by Section 17.8 hereof, within thirty (30) days after receipt of notice and all additional information

requested, as aforesaid, the Association shall be deemed to have granted its consent to the proposed transfer. In the event such sale shall not be consummated in accordance with the terms of such Outside Offer or within a reasonable time after the date set for closing thereunder, then, should such Offeree Unit Owner thereafter elect to sell such Unit the Offeree Unit Owner shall be required to again comply with all of the terms and provisions of this Article.

Any deed or lease to an Outside Offeror shall automatically be deemed to provide that the acceptance thereof by the grantee or tenant shall constitute an assumption of the provisions of this Declaration, the By-Laws, the Articles of Incorporation, applicable rules and regulations, and all other agreements, documents or instruments affecting the Condominium Property, as the same may be amended from time to time.

Any purported sale or lease of a Unit in violation of this subsection shall be voidable at any time at the election of the Association and if the Board of Directors shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Association to institute legal proceedings to void a conveyance. Said Unit Owner shall reimburse the Association for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.

The foregoing restrictions shall not apply to Units owned by the Developer or by any Institutional First Mortgagee acquiring title by foreclosure or by a deed in lieu of foreclosure or in satisfaction of debt. The Developer and such Institutional First Mortgagees shall have the right to sell or lease Units they own without having to obtain the prior approval of the Association.

Notwithstanding anything herein contained to the contrary, the Board of Directors, in exercising its rights as provided in this Section 18.1, shall not make any decision in a discriminatory manner, and no decision shall be made on the basis of race, gender, religion, familial status, national origin or physical or mental handicap; provided, however, the Association shall neither have the duty to provide an alternate purchaser or alternate lessee nor shall it assume any responsibility for the denial of a sale application or lease.

18.2 No Severance of Ownership. No part of the Common Elements may be sold, conveyed or otherwise disposed of, except as an appurtenance to the Unit in connection with a sale, conveyance or other disposition of the Unit to which such interest is appurtenant, and any sale, conveyance or other disposition of a Unit shall be deemed to include that Unit's appurtenant interest in the Common Elements.

18.3 Exceptions. The provisions of Section 18.1 shall not apply with respect to any sale or conveyance of any Unit by (a) the Unit Owner thereof to his spouse, adult children, parents, parents-in-law, adult siblings or a trustee, corporation or other entity where the Unit Owner or the aforementioned related persons are and continue to be the sole beneficiary or equity owner of such trustee, corporation or other entity, or to any one or more of the above, (b) the Developer, (c) the Association, (d) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering

a deed in lieu of foreclosure, or (e) an Institutional First Mortgagee (or its designee) deriving title by virtue of foreclosure of its mortgage or acceptance of a deed in lieu of foreclosure or in satisfaction of debt; provided, however, that each succeeding Unit Owner shall be bound by, and his Unit subject to, the provisions of this Article 18.

18.4 **Gifts and Devises, etc.** Any Unit Owner shall be free to convey or transfer Unit Owner's Unit by gift, to devise said Unit by will, or to have said Unit pass by intestacy, without restriction; provided, however, that each succeeding Unit Owner shall be bound by, and said Unit subject to, the provisions of this Article 18.

18.5 **Mortgage of Units.** No Unit Owner shall have the right to mortgage their Unit without the approval of the Association, except to an Institutional First Mortgagee; or the seller of a Unit who takes back a purchase money mortgage to secure a portion of the purchase price ("Approved Mortgagees"). The approval of any other mortgagee may be upon conditions determined by the Board and approval may be withheld in the sole discretion of the Board.

19. **COMPLIANCE AND DEFAULT.** Each Unit Owner and every occupant of a Unit and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium and all exhibits annexed hereto, and the rules and regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:

19.1 **Negligence.** A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, but only to the extent such expense is not met by the proceeds of insurance actually collected in respect of such negligence by the Association.

19.2 **Compliance.** In the event a Unit Owner or occupant fails to maintain a Unit or fails to cause such Unit to be maintained, or fails to observe and perform all of the provisions of the Declaration, the By-Laws, the Articles of Incorporation of the Association, applicable rules and regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to impose any applicable fines, to sue in a court of law for damages, to take such actions as shall be permitted under this Declaration and in accordance with the provisions of the Condominium Act, which will put the Unit Owner or Unit in compliance, and to hire an attorney to make a charge against the Unit Owner and Unit for the costs of such reasonable attorneys' fees incurred in requiring performance and/or compliance of the Unit Owner. In addition, the Association shall have the right, for itself and its employees and agents, of access to each Unit during reasonable hours, when necessary for the maintenance, repair or replacement of any common elements or of any portion of the Unit to be maintained by the Association pursuant to this Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

19.3 **Fines.** In the event a Unit Owner or occupant fails to observe and perform any of the provisions of the Declaration, the Articles of Incorporation, the By-Laws, applicable reasonable rules and regulations of the Association, or in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed any maximum amount permitted by the Condominium Act, as such Act may be amended from time to time. Any fine shall be imposed by written notice to the Unit Owner or tenant, signed by an officer of the Association. The Unit Owner, tenant, or other party against whom the fine is sought to be levied shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days. Said notice shall specifically state the amount of the fine, the date, time and place of the hearing; the provisions of the Declaration, Articles of Incorporation, By-Laws or rules which have allegedly been violated; and a short and plain statement of the matter asserted by the Association.

The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral agreement on all issues involved and shall have an opportunity at the hearing to review, challenge and respond to any material considered by the Association.

The hearing shall be held before a committee of other Unit Owners appointed by the Board (the "Committee"). At the hearing, the Committee shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred, and that the fine imposed is appropriate. The Unit Owner, tenant or other party against whom the fine is sought to be levied shall have the right to attend the hearing and to produce evidence on his behalf, and if the Unit Owner or tenant fails to attend then the hearing will be deemed waived and the Committee may ratify the fine without further proceedings. At the hearing the Committee shall ratify, or disagree with, the fine. If the Committee does not agree with the fine, the fine may not be levied. If a majority of the Committee members agrees with the fine, the Association shall give the Unit Owner, tenant or other party against whom the fine is sought, written notice of the Committee's decision. Any fine shall be due and payable within ten (10) days after written notice of the Committee's imposition of the fine. If any fine is levied against a tenant and is not paid within ten (10) days after same is due, the Association shall have the right to evict the tenant as provided in Section 17.8 of this Declaration.

19.4 **Costs and Attorneys' Fees.** In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Act, this Declaration, the exhibits annexed hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees (including appellate attorneys' fees).

19.5 **No Waiver of Rights.** The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the exhibits annexed

hereto, or the rules and regulations adopted pursuant to said documents, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.

20. **TERMINATION OF CONDOMINIUM.** The Condominium shall continue until (i) terminated by casualty loss, condemnation or eminent domain, as more particularly provided in this Declaration, or (ii) such time as withdrawal of the Condominium Property from the provisions of the Act is authorized by a vote of Owners owning at least 80% of the applicable interests in the Common Elements and by the Primary Institutional First Mortgagee. In the event such withdrawal is authorized as aforesaid, the Condominium Property shall be subject to an action for partition by any Unit Owner, mortgagee or lienor as if owned in common in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective interests in the Common Elements, provided, however, that no payment shall be made to a Unit Owner until there has first been paid off out of his share of such net proceeds all mortgages and liens on his Unit in the order of their priority. The termination of the Condominium, as aforesaid, shall be evidenced by a certificate of the Association executed by its President and Secretary, certifying as to the basis of the termination and said certificate shall be recorded among the public records of the County.

This Section may not be amended without the consent of the Primary Institutional First Mortgagee, which consent may not be unreasonably withheld, and the Developer as long as it holds Units for sale in the ordinary course of business.

21. **ADDITIONAL RIGHTS OF MORTGAGEES AND OTHERS.**

21.1 Institutional Mortgagees shall have the right, upon written request to the Association, to: (i) examine the Condominium documents and the Association's books and records, (ii) receive a copy of the Association's financial statement for the immediately preceding fiscal year, (iii) receive notices of and attend Association meetings, (iv) receive notice of any alleged default in any obligations hereunder by any Unit Owner, on whose Unit such Mortgagee holds a mortgage, which is not cured within thirty (30) days of notice of default to the Unit Owner, and (v) receive notice of any substantial damage or loss to any portion of the Condominium Property.

21.2 Any holder, insurer or guarantor of a mortgage on a Unit shall have, if first requested in writing, the right to timely written notice of (i) any condemnation or casualty loss affecting a material portion of the Condominium Property or the affected mortgaged Unit, (ii) a sixty (60) day delinquency in the payment of the Assessments on a mortgaged Unit, (iii) the occurrence of a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, (iv) any proposed termination of the Condominium, and (v) any proposed action which requires the consent of a specified number of mortgage holders.

21.3 The approval of a majority of Institutional First Mortgagees shall be required to effect an amendment to the Declaration which materially affects the rights or interests of the Institutional First Mortgagees, as set forth in Sections 718.110(4) and 718.110(8), Florida Statutes, as amended from time to time, which approvals shall not be unreasonably withheld.

22. **COVENANT RUNNING WITH THE LAND.** All provisions of this Declaration, the Articles, By-Laws and applicable rules and regulations of the Association shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Developer and subsequent owner(s) of the Land or any part thereof, or interest therein, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, By-Laws and applicable rules and regulations, as they may be amended from time to time. The acceptance of a deed or conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.

23. **ADDITIONAL PROVISIONS.**

23.1 **Notices.** All notices to the Association required or desired hereunder or under the By-Laws of the Association shall be sent by certified mail (return receipt requested) or registered mail to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association. All notices shall be deemed to have been given when mailed in a postage prepaid sealed wrapper, except notices of a change of address, which shall be deemed to have been given when received, or five (5) business days after proper mailing, whichever shall first occur.

23.2 **Interpretation.** The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

23.3 **Mortgagees.** Anything herein to the contrary notwithstanding, the Association shall not be responsible to any mortgagee or lienor of any Unit hereunder, and may assume the Unit is free of any such mortgages or liens, unless written notice of the existence of such mortgage or lien is received by the Association.

23.4 **Exhibits.** There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set

forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.

23.5 **Signature of President and Secretary.** Wherever the signature of the President of the Association is required hereunder, the signature of a vice-president may be substituted therefor, and wherever the signature of the Secretary of the Association is required hereunder, the signature of an assistant secretary may be substituted therefor, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.

23.6 **Governing Law.** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits annexed hereto or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.

23.7 **Severability.** The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits annexed hereto, or applicable rules and regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

23.8 **Waiver.** No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.

23.9 **Ratification.** Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and By-Laws of the Association, and applicable rules and regulations, are fair and reasonable in all material respects.

23.10 **Execution of Documents; Attorney-in-Fact.** Without limiting the generality of other Sections of this Declaration and without such other Sections limiting the generality hereof, each Owner, by reason of the acceptance of a deed to such Owner's Unit, hereby agrees to execute, at the request of the Developer, all documents or consents which may be required by all governmental agencies to allow the Developer and its affiliates to complete the plan of development of the Condominium as such plan may be hereafter amended, and each such Owner further appoints hereby and thereby the Developer as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of such Owners, any and all of such documents or consents. This Power of Attorney is irrevocable and coupled with an interest. The provisions of this Section may not be amended without the consent of the Developer.

23.11 **Sales Activity and Developer's Rights.** Until the date the Developer has completed and sold all of its Units within the Condominium, neither the Unit Owners nor

the Association nor their use of the Condominium shall interfere with the completion of the contemplated improvements and the sale of Units. The Developer (or its duly authorized agents or assigns) may make such use of the unsold Units and the Common Elements and the facilities within the Condominium until such date as may facilitate such completion and sale, including, but not limited to, the maintenance of sales offices for the showing of the property and display of signs, billboards, placards, and visual promotional materials, and the maintenance of an administrative office. The Developer may use unsold Units as model Units or as sales offices for display purposes to prospective purchasers. The sales office personal property, model furnishings, signs and all items pertaining to sale shall not be considered Common Elements and shall remain the property of the Developer.

23.12 Gender; Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all or no genders.

23.13 Captions. The captions herein and in the Exhibits annexed hereto are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.

23.14 Access of Developer to Building and Units. For as long as Developer remains liable to any Unit Owner, or the Condominium Association, under any warranty, whether statutory, express or implied, for any act or omission of Developer in the development, construction, sale and marketing of the Condominium, or any Units therein, then Developer and its agents shall have the right, in Developer's sole discretion, and from time to time, to enter the Condominium Property, or any Units, for the purpose of inspecting, testing and surveying same, to determine the need for repairs, improvements or replacements, so as to permit Developer to fulfill its obligations under such warranties. Failure of the Condominium Association or of a Unit Owner to grant such access shall result in the appropriate warranty being nullified and of no further force or effect.

24. DISCLAIMER OF WARRANTIES. DEVELOPER HEREBY DISCLAIMS ANY AND ALL EXPRESSED OR IMPLIED WARRANTIES AS TO DESIGN, CONSTRUCTION, FURNISHING AND EQUIPPING OF THE CONDOMINIUM PROPERTY, EXCEPT ONLY THOSE SET FORTH IN SECTION 718.203 OF THE ACT, TO THE EXTENT APPLICABLE, AND THOSE SPECIFICALLY GIVEN IN WRITING BY DEVELOPER. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

ALL UNIT OWNERS, BY VIRTUE OF THEIR ACCEPTANCE OF TITLE TO THEIR RESPECTIVE UNITS (WHETHER FROM THE DEVELOPER OR ANOTHER PARTY), SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.

25. **MANDATORY NONBINDING ARBITRATION OF DISPUTES.**

- (a) Prior to the institution of court litigation, the parties to a dispute shall petition the Division for nonbinding arbitration. Arbitration shall be conducted according to rules promulgated by the Division. The filing of a petition for arbitration shall toll the applicable statute of limitations.
- (b) At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by law.
- (c) The arbitration decision shall be presented to the parties in writing. An arbitration decision shall be final if a complaint for a trial de novo is not filed in a court of competent jurisdiction within 30 days in which the Condominium is located. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party may be awarded reasonable attorneys' fees, the costs of the arbitration, or both, in an amount determined in the discretion of the arbitrator.
- (d) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.
- (e) The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence.
- (f) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition is granted, the petitioner may recover reasonable attorney's fees and costs incurred in enforcing the arbitration award.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 15th of February, 2005.

Signed, sealed and delivered
in the presence of:

BRIXTON DEVELOPMENT LLC,
a Florida limited liability company

Sandra G. Smith
Witness Signature
Sandra G. Smith
Witness Printed Name

By: [Signature]
Gregg A. Fous
Title: Manager Member

Holly Sugrue
Witness Signature
HOLLY SUGRUE
Witness Printed Name

[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 15th day of February, 2005, by Gregg A. Fous, as Manager Member of BRIXTON DEVELOPMENT LLC, a Florida limited liability company, on behalf of the limited liability company. He is personally known to me or has produced n/a as identification.

(SEAL)  **Sandra Guyer Smith**
Commission # DD132366
Expires July 8, 2006
Bonded Through
Atlantic Bonding Co., Inc.

Sandra Guyer Smith
Notary Public Signature
Sandra Guyer Smith
Notary Public Printed Name

My commission expires:

26501_1.DOCnap

**EXHIBIT A TO THE DECLARATION OF CONDOMINIUM
OF
OASIS OF CAPE CORAL, A CONDOMINIUM
LEGAL DESCRIPTION**



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email - fmoffice@bwlk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Exhibit "A"


A Parcel of Land
Lying in
Section 4, Township 44 South, Range 24 East
City of Cape Coral, Lee County, Florida

Tract "B", Block 6632 of that certain subdivision known as Hancock Creek South Center, according to the plat thereof, as recorded in Plat Book 63, Pages 85 and 86, of the Public Records of Lee County, Florida.

Containing 6.02 acres (262,240 square feet), more or less.

Bean, Whitaker, Lutz & Kareh, Inc. [LB4919]

34123-S DESC1 10/28/03


W. Britt Pomeroy, Jr., P.S.M. 4448

PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

ASSOCIATES:
TRACY N. BEAN, A
CHARLES D. KOBIG
W. BRITT POMEROY
STEPHEN H. SKID
ELWOOD FINEFIE

**EXHIBIT B TO THE DECLARATION OF CONDOMINIUM
OF
OASIS OF CAPE CORAL, A CONDOMINIUM
SURVEY AND PLOT PLANS**



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email - fmoffice@bwlk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Surveyor's Certification For Oasis of Cape Coral, a Condominium

I, W. Britt Pomeroy, Jr., Professional Surveyor and Mapper, hereby certify that the construction of the improvements of Oasis of Cape Coral, a Condominium as shown on the attached Exhibit "B" dated 1/20/05 is substantially complete so that these materials, together with the provisions of the Declaration of Condominium describing the condominium property as relates to survey matters only, is an accurate representation of the location and dimensions of the improvements and so that the identification, location and dimensions of the common elements, limited common elements and of each unit can be determined from these materials and that all planned improvements, including but not limited to landscaping, utility services and access to the unit and common element facilities serving the building in which the units to be conveyed are located have been substantially completed.

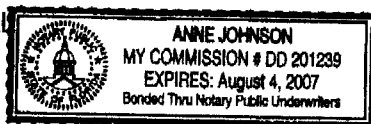
Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

W. Britt Pomeroy, Jr.
W. Britt Pomeroy, Jr. R.L.S. 4448

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned officer, personally appears W. Britt Pomeroy, Jr. of Bean, Whitaker, Lutz & Kareh, Inc., personally known to me and who did not take an oath, and who is known to me to be the person described in and who executed the foregoing instrument, and acknowledged to me and before me that he executed said instrument in the capacity and for the purposes therein expressed this 2nd day of February, 2005.

SEAL



Anne Johnson
Notary Public

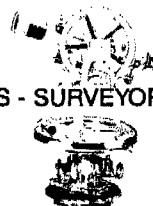
34123CERT2

2/9/05

PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

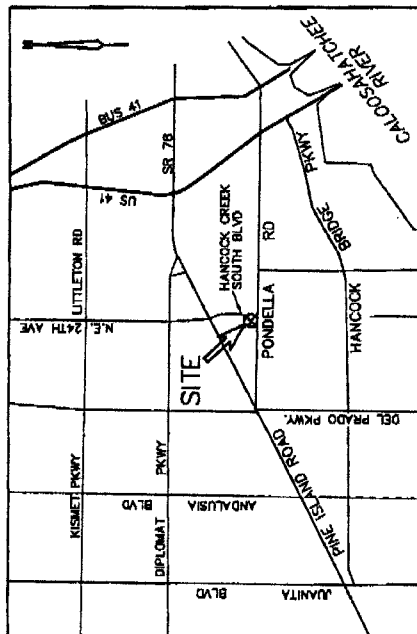


ASSOCIATES:

TRACY N. BEAN, AICP
CHARLES D. KNIGHT, PSM
W. BRITT POMEROY, JR., PSM
STEPHEN H. SKORUPSKI, PSM
ELWOOD FINEFIELD, PSM
JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLF A. NORMAN, PE

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM
LYING IN
SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

GENERAL NOTES:
ALL USES ARE RESIDENTIAL.
UNDERGROUND UTILITIES AND IMPROVEMENTS ARE NOT SHOWN.
DRAINAGE STRUCTURES AND RETENTION AREAS ARE NOT SHOWN.
ELEVATIONS ARE BASED ON N.G.V.D. OF 1929.
ROOF OVERHANGS, DECORATIVE WALLS, SEWER, WATER, ELECTRIC
LINES AND SERVICE BOXES ARE NOT SHOWN.
THE DEVELOPER RESERVES THE RIGHT TO GRANT EASEMENTS FOR
INGRESS/EGRESS, DRAINAGE, UTILITIES OR RECREATIONAL PURPOSES.
THESE DRAWINGS ARE PREPARED AS SURVEYOR'S EXHIBITS TO THE
DECLARATION OF CONDOMINIUM FOR "OASIS OF CAPE CORAL, A
CONDOMINIUM". THIS CONDOMINIUM IS SUBJECT TO THE PROVISIONS
SET FORTH IN SAID DECLARATION. REFER TO THE DECLARATION OF
CONDOMINIUM FOR DEFINITIONS PERTAINING TO EASEMENTS,
COMMON ELEMENTS, LIMITED COMMON ELEMENTS AND UNIT
BOUNDARIES.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND
RIGHTS-OF-WAY (RECORDED AND UNRECORDED).



VICINITY SKETCH
(NOT TO SCALE)

DRAWING INDEX

SHEET NO.	TITLE
1	COVER SHEET
2	OVERALL PLOT PLAN
3	FIRST FLOOR UNIT BOUNDARIES BLDG 1
4	SECOND FLOOR UNIT BOUNDARIES BLDG 1
5	FIRST FLOOR UNIT BOUNDARIES BLDG 2
6	SECOND FLOOR UNIT BOUNDARIES BLDG 2
7	FIRST FLOOR UNIT BOUNDARIES BLDG 3
8	SECOND FLOOR UNIT BOUNDARIES BLDG 3
9	FIRST FLOOR UNIT BOUNDARIES BLDG 4
10	SECOND FLOOR UNIT BOUNDARIES BLDG 4
11	FIRST FLOOR UNIT BOUNDARIES BLDG 5
12	SECOND FLOOR UNIT BOUNDARIES BLDG 5
13	VERTICAL BOUNDARIES

NOT BE USED WITHOUT THE SIGNATURE AND
THIS OFFICIAL APPROVED SEAL OF A FLORIDA
LICENSED SURVEYOR AND MAPPER.
SEAN WHITAKER, LUTZ & KAREH, INC.
W. TRITT POMEROY, JR. (FOR THE FIRM)
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 14448
- THIS CERTIFICATION IS ONLY FOR THE PURPOSES
OF RECORDING HEREON!
- IT IS NOT A CERTIFICATION OF TITLE, ZONING,
SETBACKS OR FREEDOM OF ENCUMBRANCES.
- THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF
RECORDS OF TITLE AND ALL EASEMENTS, TITLE
RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY
SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

COVER SHEET

Sean, Whitaker, Lutz & Kareh, Inc. (a 401c)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
18041 MCCORMICK BOULEVARD, FORT MYERS, FLORIDA 33916-9990 (239) 481-1321

34123_F_SHT-1.DWG	DATE	01-20-05	PROJECT NO.	34123	DATE	01-20-05	SCALE	1" = 1/4" N/A	SHEET	1 OF 13	FILE NO.	9-1-0	4-44-24
-------------------	------	----------	-------------	-------	------	----------	-------	---------------	-------	---------	----------	-------	---------

ALL OF THE
IMPROVEMENTS ARE
COMPLETED AT THIS
TIME.

Page 53 of 103

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF OASIS OF CAPE CORAL, A CONDOMINIUM LYING IN

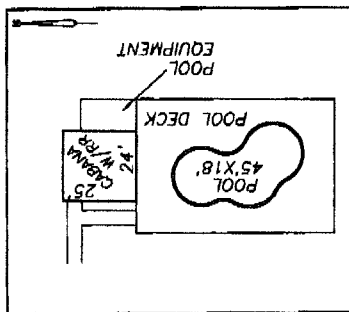
SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



- ① EXISTING 2 STORY BUILDING - 12 UNITS
- ② EXISTING 2 STORY BUILDING - 12 UNITS
- ③ EXISTING 2 STORY BUILDING - 12 UNITS
- ④ EXISTING 2 STORY BUILDING - 12 UNITS
- ⑤ EXISTING 2 STORY BUILDING - 12 UNITS
- ⑥ EXISTING 2 STORY BUILDING - 8 UNITS
- Ⓡ EXISTING RECREATION AREA

KEY:
CE = COMMON ELEMENT
G = GARBAGE
⑤ = BUILDING NUMBER
RR = RESTROOMS

RECREATION AREA
DETAIL
NOT TO SCALE

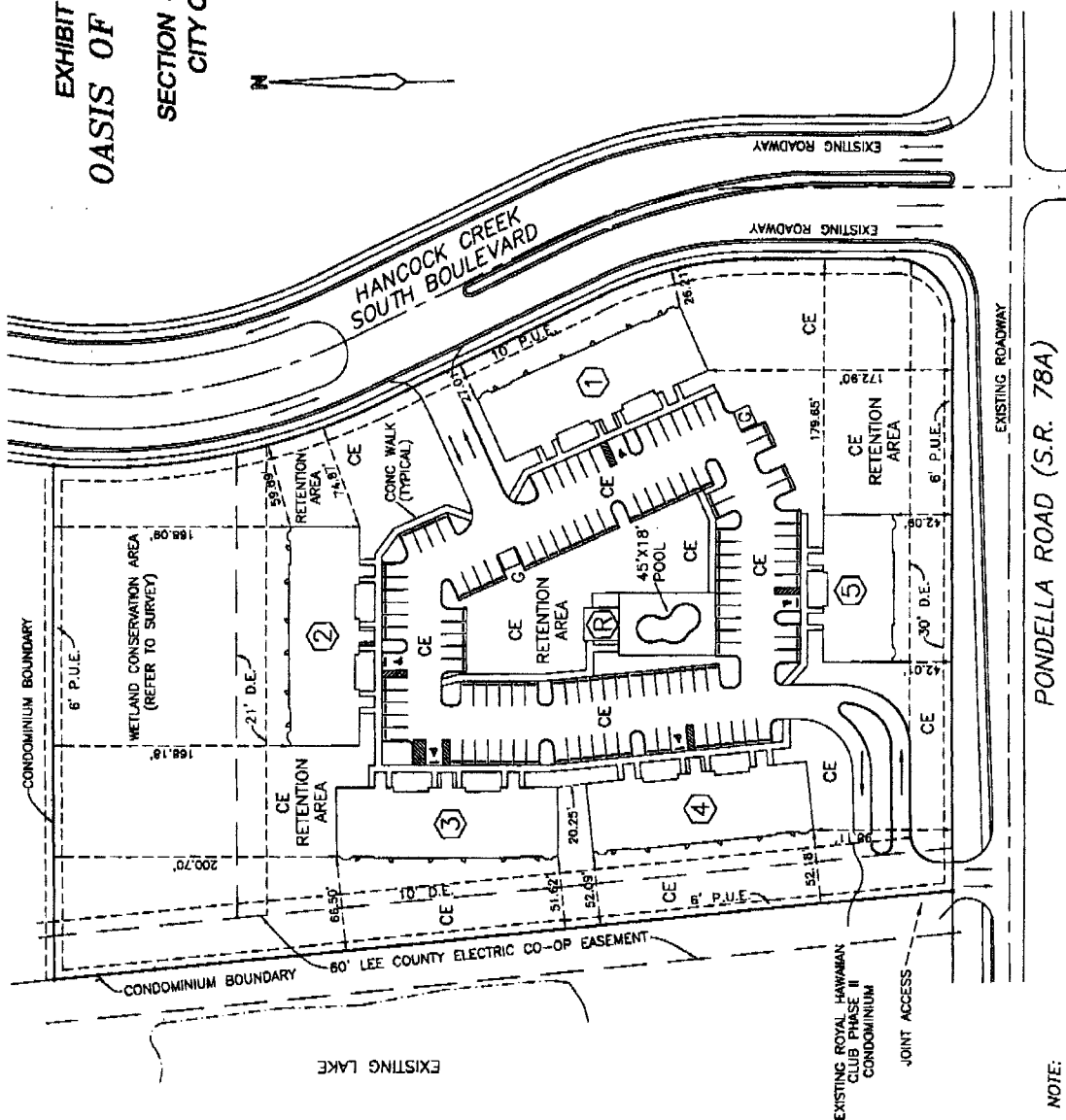


PLOT PLAN

Bean, Whitaker, Lutz & Karch, Inc. (a 401k)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
15041 MONROE BOULEVARD, SUITE 100, FORT MYERS, FLORIDA 33907-4811 (239) 481-1331

DATE	01-20-05	PROJECT NO.	34123	ISSUED BY	J.N.	SCALE	1" = 80'	SHEET	3 OF 13	FILE NO.	05-7-13	4-44-24
------	----------	-------------	-------	-----------	------	-------	----------	-------	---------	----------	---------	---------

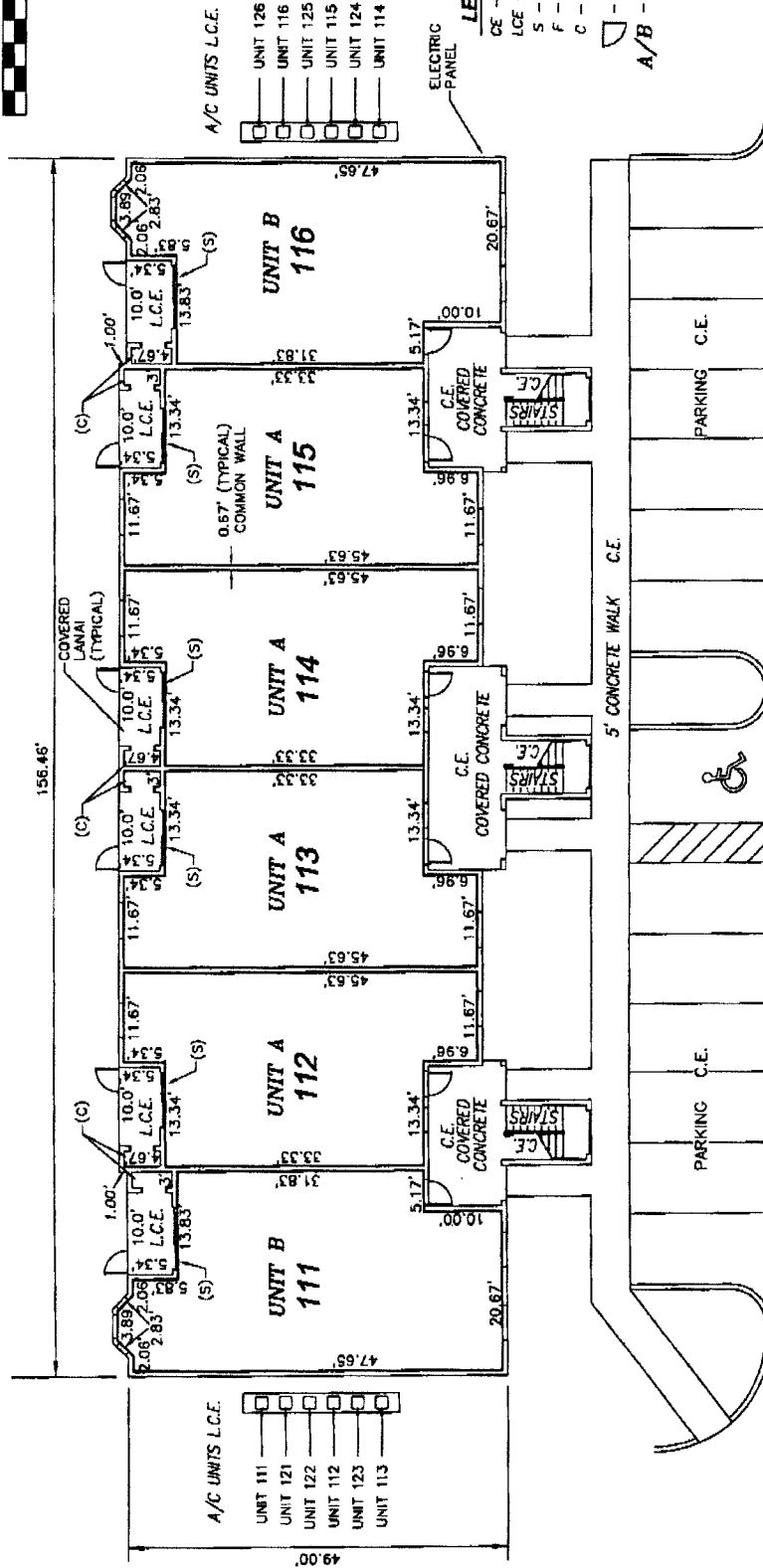
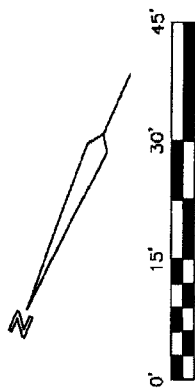


PONDELLA ROAD (S.R. 78A)

NOTE:
ALL PARKING AREAS ARE COMMON ELEMENTS.
ALL IMPROVEMENTS ARE COMPLETED AT THIS TIME.

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM
LYING IN

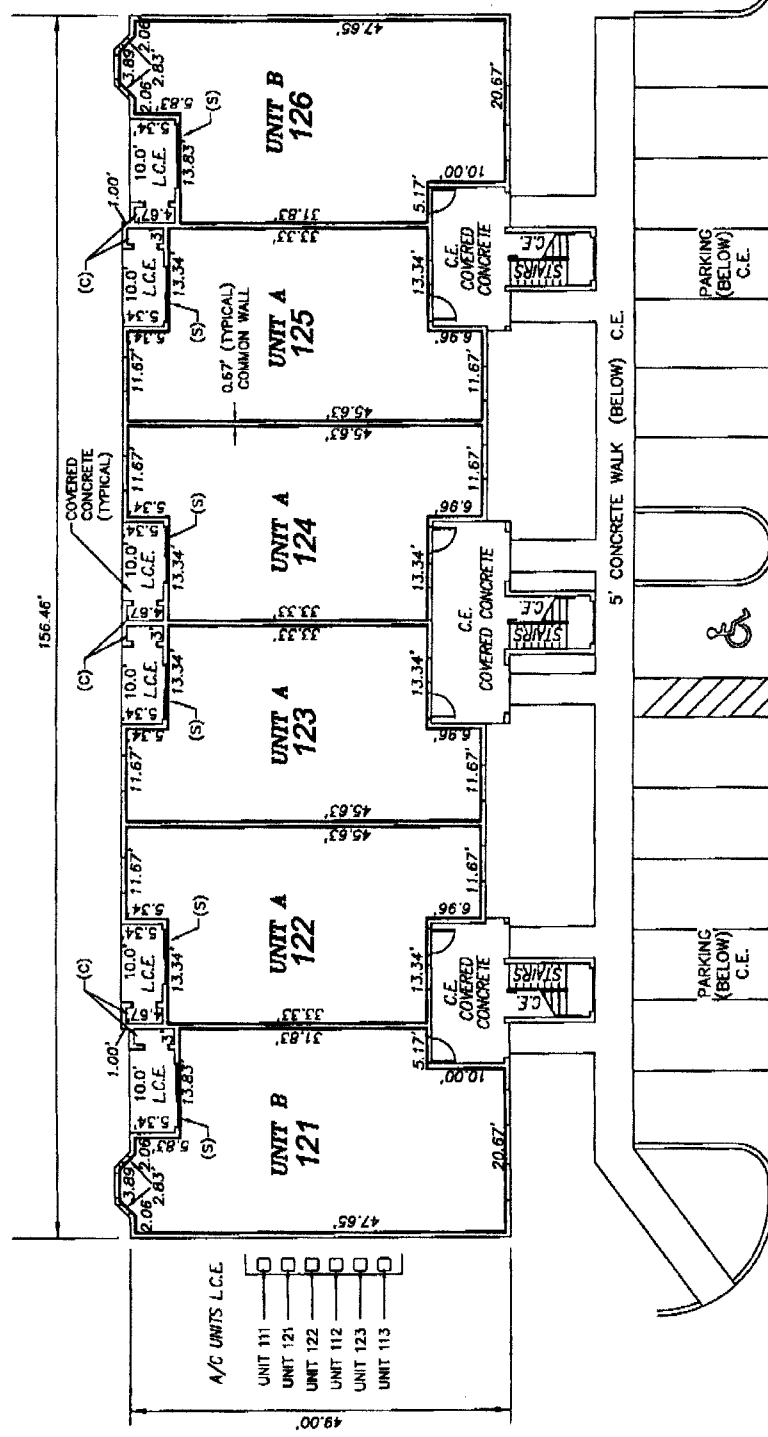
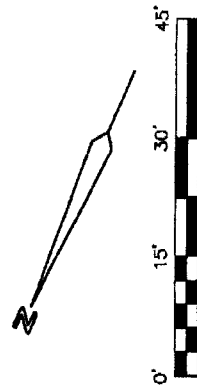
SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



Bean, Whitaker, Lutz & Karch, Inc. (23 0010)	
CIVIL ENGINEERS - SURVEYORS AND MAPPLERS - PLANNERS	
1841-1 MONROE BOULEVARD, PORT MYRTLE, FLORIDA 33558-0010	
(239) 481-1331	
DATE	3/4/23, F. SHI-2.0mg
PROJECT NO.	01-20-03
SCALE	1"= 15'
DATE	3/4/23
FILE NO.	01-20-03
4-44-24	

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM
LYING IN

SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



LEGEND

- CE - COMMON ELEMENT
- LCE - LIMITED COMMON ELEMENT
- S - SLIDING DOOR
- F - FIELD
- C - CLOSET
- INDICATES DOOR
- A/B - INDICATES UNIT TYPE (REFER TO FLOOR PLAN)

- A/C UNITS L.C.E.
- UNIT 126
 - UNIT 116
 - UNIT 125
 - UNIT 115
 - UNIT 124
 - UNIT 114

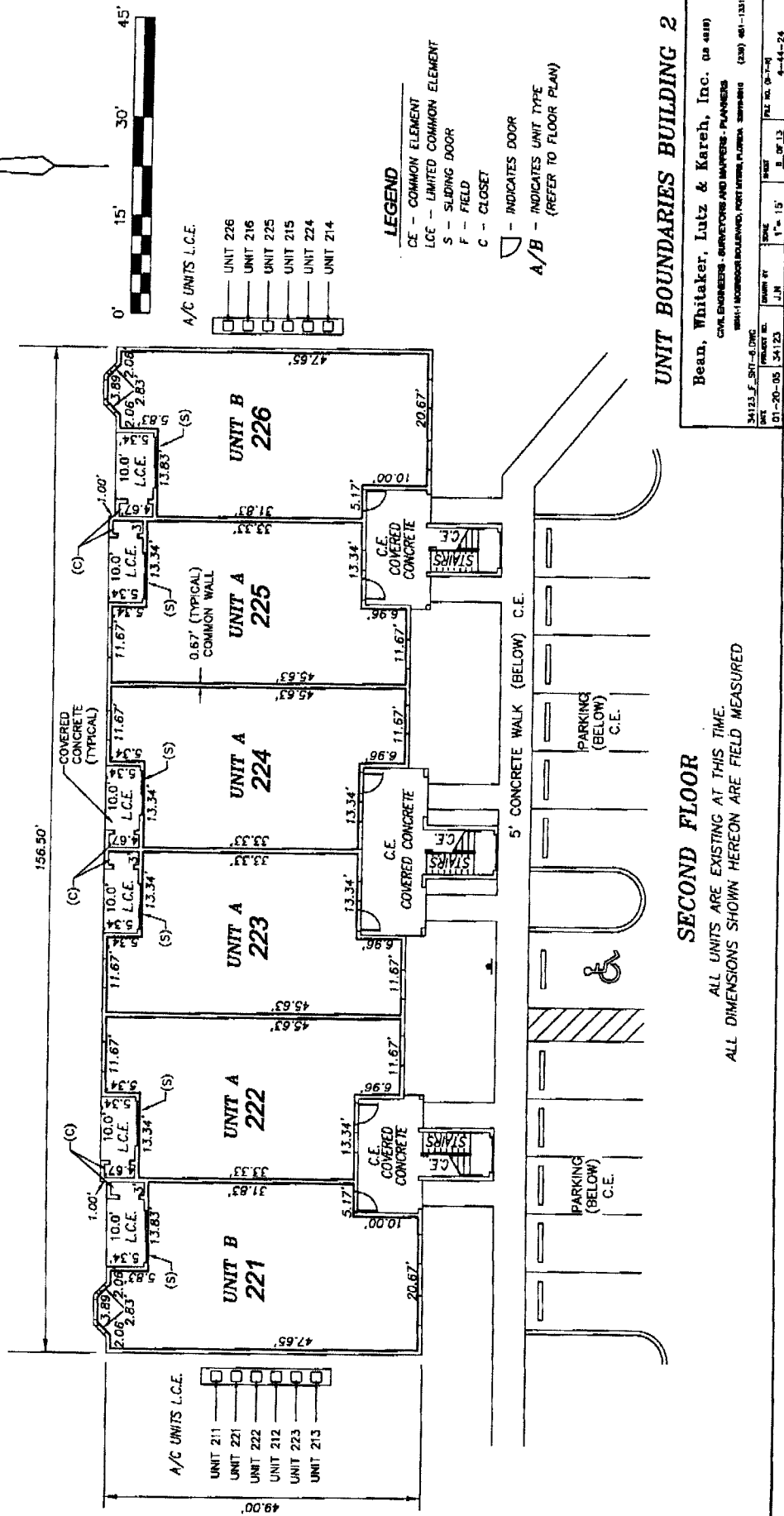
UNIT BOUNDARIES BUILDING 1

SECOND FLOOR
ALL UNITS ARE EXISTING AT THIS TIME.
ALL DIMENSIONS SHOWN HEREON ARE FIELD MEASURED

Bean, Whitaker, Lutz & Karch, Inc. (20 4419)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
1804-13 HODGSON BOLLINGER, PORT MYRTLE, FLORIDA 33558-0010
(203) 461-1331
34123, F. 507-4.000
DATE: 01-20-06
PROJECT NO.: 34123
SCALE: 1" = 15'
SHEET: 5 OF 13
FILE NO.: 0-7-00
4-44-24

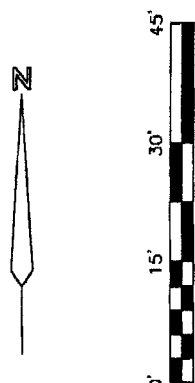
EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM
LYING IN

SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



LYING IN

**SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA**




A/C UNITS L.C.E.

- | | |
|--------------------------|----------|
| <input type="checkbox"/> | UNIT 326 |
| <input type="checkbox"/> | UNIT 316 |
| <input type="checkbox"/> | UNIT 314 |
| <input type="checkbox"/> | UNIT 324 |
| <input type="checkbox"/> | UNIT 315 |
| <input type="checkbox"/> | UNIT 325 |

LEGEND

CE - COMMON ELEMENT
LCE - LIMITED COMMON ELEMENT
S - SLIDING DOOR
F - FIELD
C - CLOSET

 - INDICATES DOOR
 A/B - INDICATES UNIT TYPE
 (REFER TO FLOOR PLAN)

UNIT BOUNDARIES BUILDING 3

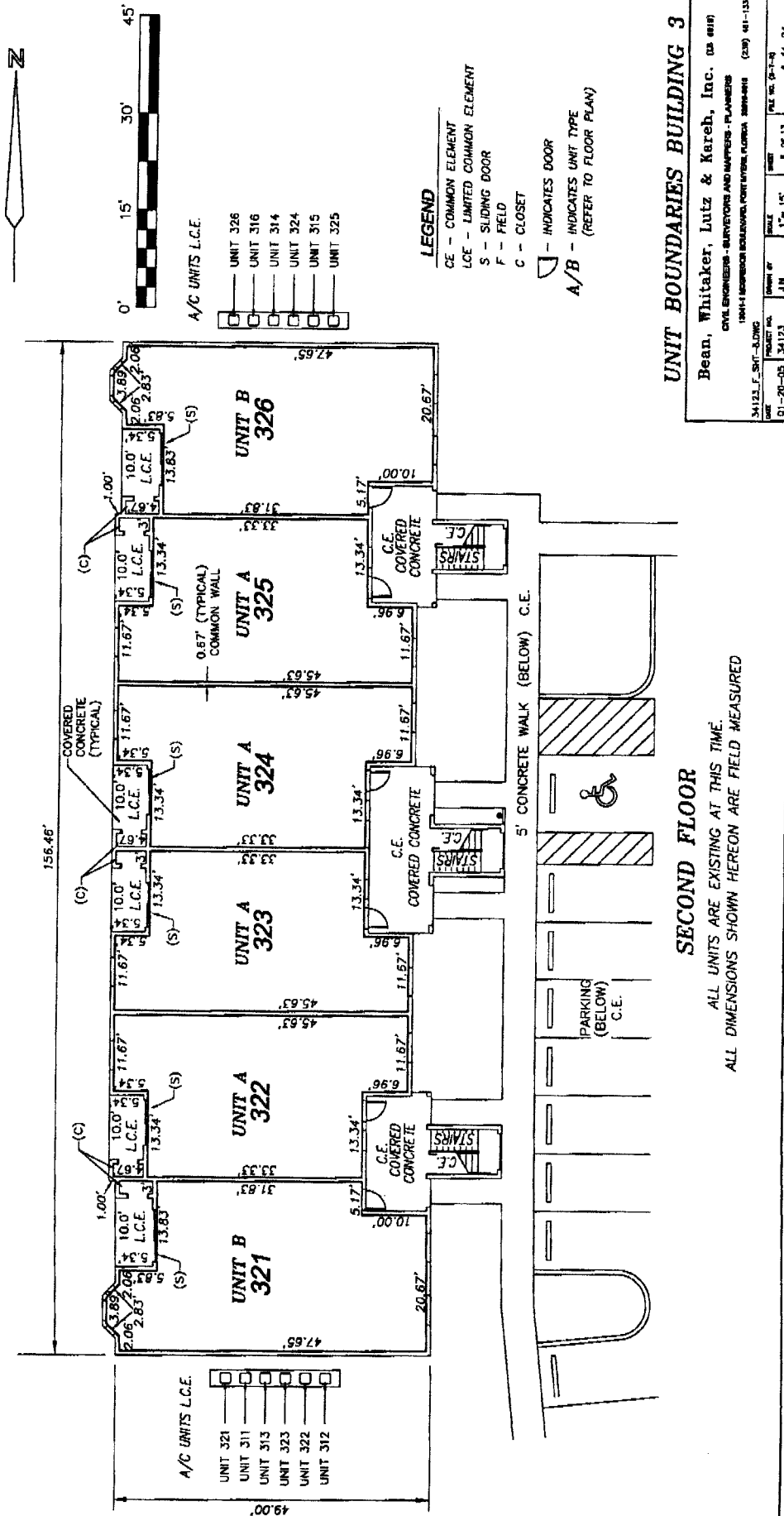
FOOTNOTES

ALL UNITS ARE EXISTING AT THIS TIME.
ALL DIMENSIONS SHOWN HEREON ARE FIELD MEASURED

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (3-7-40)
01-20-04	34123	J.M.	1" = 15'	7 OF 13	4-44-24

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM

LYING IN
SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



LYING IN

**SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA**



CE - COMMON ELEMENT
LCE - LIMITED COMMON ELEMENT
S - SLIDING DOOR
F - FIELD
C - CLOSET

☐ - INDICATES DOOR

A/B - INDICATES UNIT TYPE
(REFER TO FLOOR PLAN)

UNIT BOUNDARIES BUILDING 4

Bean, Whitaker, Lutz & Kareh, Inc. (214 4519)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

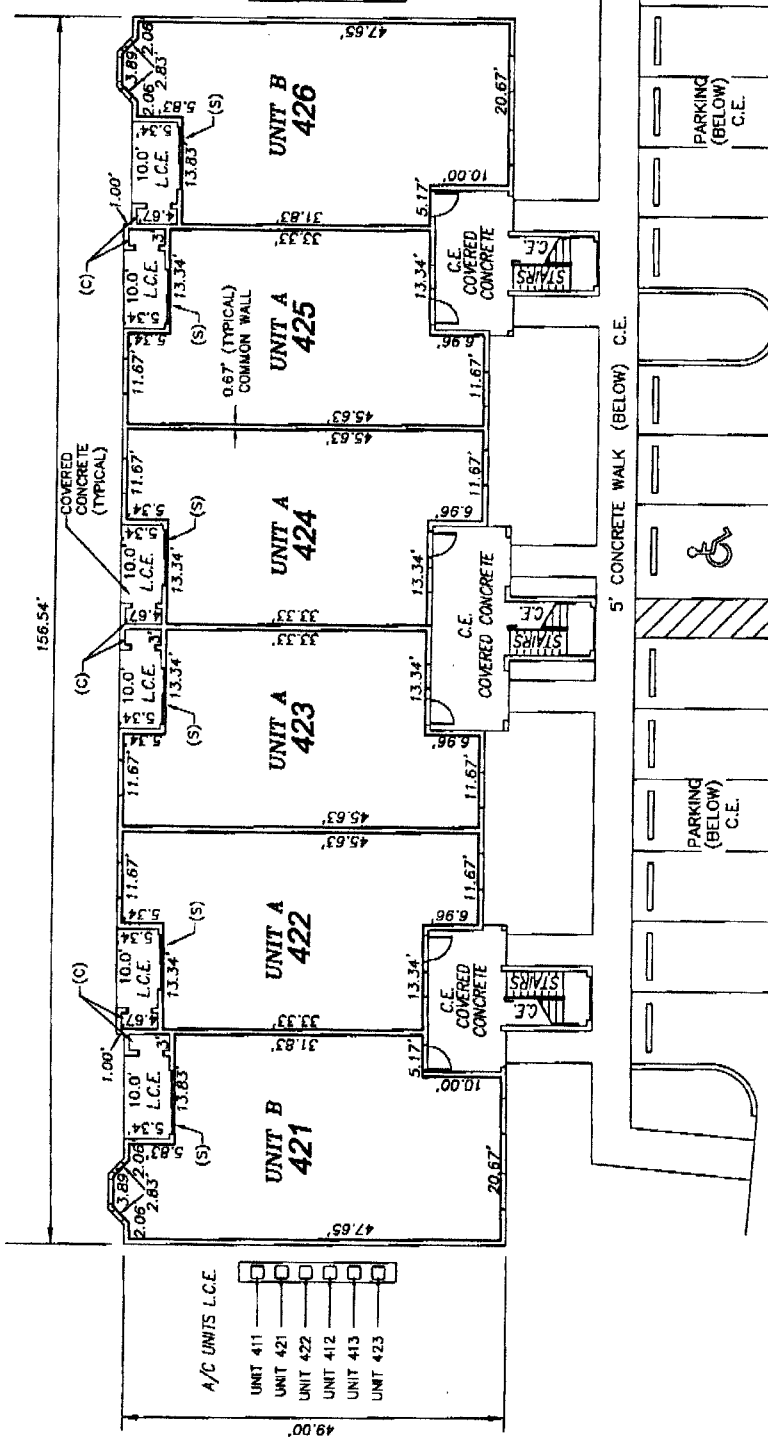
ALL DIMENSIONS SHOWN HEREON ARE FIELD MEASURED
ALL UNITS ARE EXISTING AT THIS TIME.

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (3-1-4)
05-20-75	34123	AMS	1" = 10'	0 OF 25	4-44-74

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM

LYING IN

SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



UNIT BOUNDARIES BUILDING 4

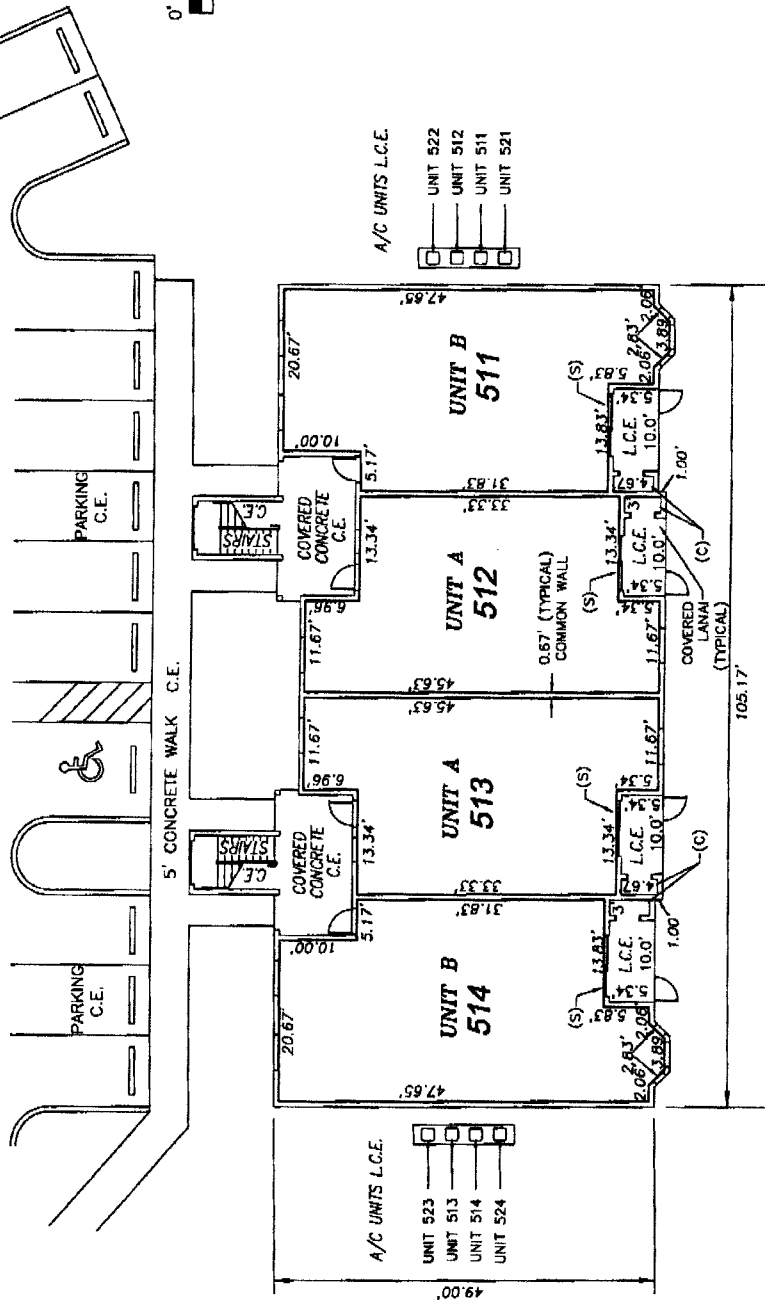
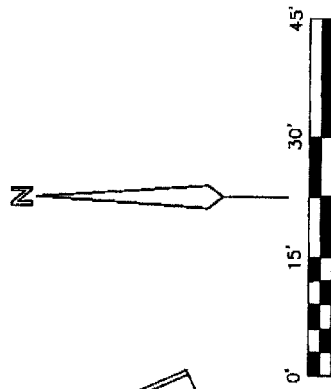
Bean, Whitaker, Lutz & Karch, Inc. (a 4419)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
1801-11 BUCKINGHAM BOULEVARD, FORT MYERS, FLORIDA 33901-1331
34123 F. 3117-10.000
DATE 01-20-05 PROJECT NO. 34123 SCALE 1"=15' SHEET 10 OF 13 FILE NO. 04-24

SECOND FLOOR

ALL UNITS ARE EXISTING AT THIS TIME.
ALL DIMENSIONS SHOWN HEREON ARE FIELD MEASURED

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM
LYING IN

SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



FIRST FLOOR

ALL UNITS ARE EXISTING AT THIS TIME.
ALL DIMENSIONS SHOWN HEREON ARE FIELD MEASURED

UNIT BOUNDARIES BUILDING 5

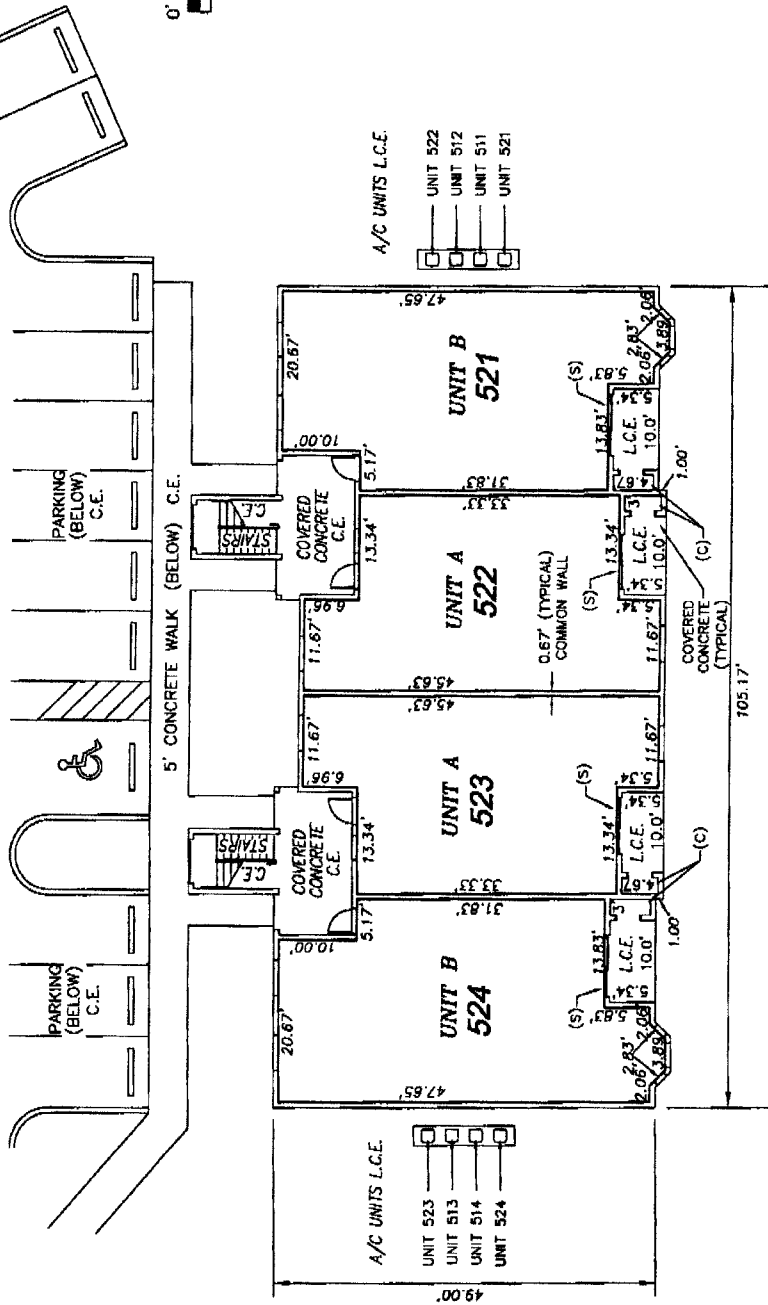
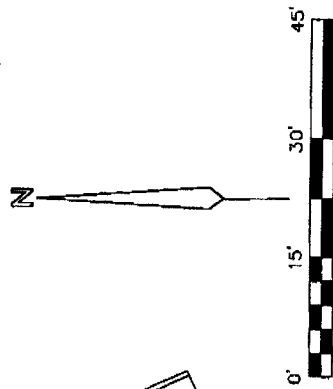
Bean, Whitaker, Lutz & Karch, Inc. (CA 0410)
CIVIL ENGINEERS - SURVEYORS AND MAPMAKERS

1801-A WOODBRIDGE BOULEVARD, FORT MYERS, FLORIDA 33901-4010 (239) 481-1331

DATE OF PREPARED	DATE OF REVIEW	DATE OF REVISION	DATE OF REVISION
01-20-05	04-13-05	04-13-05	04-13-05
BY: JLN	BY: JLN	BY: JLN	BY: JLN
CHECKED: JLN	CHECKED: JLN	CHECKED: JLN	CHECKED: JLN

EXHIBIT "B" TO CONDOMINIUM DECLARATION OF
OASIS OF CAPE CORAL, A CONDOMINIUM
LYING IN

SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA



Bean, Whitaker, Lutz & Karch, Inc. (CA 4918)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
1984-1 LICENSE NO. 12000, PORT ST. LUCIE, FLORIDA 34956 (239) 481-1331

34123.F_50F-12.DWG	DATE	11-15-15	SCALE	1"=15'	PLAT NO.	4-44-24
01-20-05	34123	11-15-15	1"=15'	11-15-15	11-15-15	11-15-15

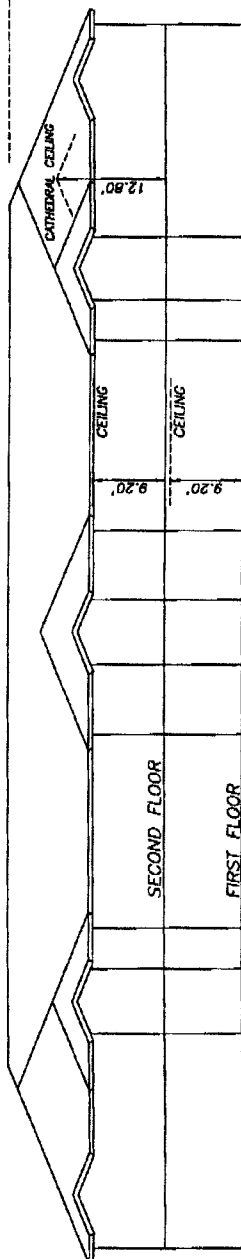
EXHIBIT "B" TO CONDOMINIUM DECLARATION OF OASIS OF CAPE CORAL, A CONDOMINIUM LYING IN

SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
CITY OF CAPE CORAL, LEE COUNTY, FLORIDA

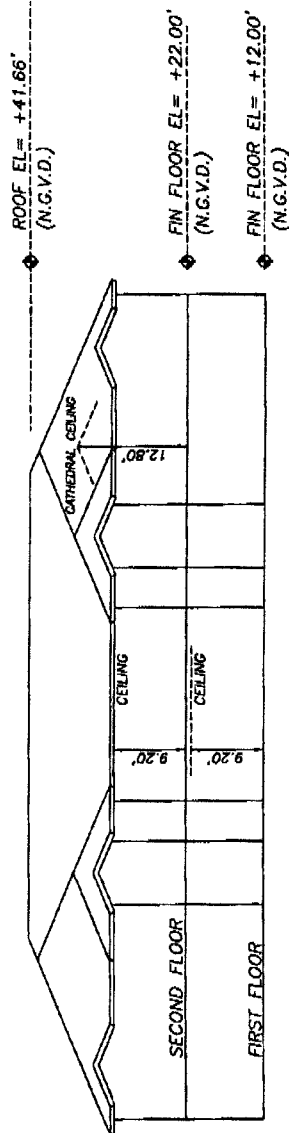
BUILDING 1. ROOF EL= +41.76'
BUILDING 2. ROOF EL= +42.79'
BUILDING 3. ROOF EL= +42.72'
BUILDING 4. ROOF EL= +42.62'
(N.G.V.D.)

BUILDING 1. FIN FLOOR EL= +22.10'
BUILDING 2. FIN FLOOR EL= +22.00'
BUILDING 3. FIN FLOOR EL= +22.00'
BUILDING 4. FIN FLOOR EL= +22.00'
(N.G.V.D.)

BUILDING 1. FIN FLOOR EL= +12.10'
BUILDING 2. FIN FLOOR EL= +12.00'
BUILDING 3. FIN FLOOR EL= +12.00'
BUILDING 4. FIN FLOOR EL= +12.00'
(N.G.V.D.)



FRONT ELEVATION
BUILDINGS 1, 2, 3 AND 4
(12 UNIT BUILDING)



FRONT ELEVATION
BUILDING 5
(8 UNIT BUILDING)

LEGEND

EL = ELEVATION
N.G.V.D. = NATIONAL GEODETTIC VERTICAL DATUM OF 1929
FIN = FINISHED



VERTICAL BOUNDARIES

Bean, Whitaker, Lutz & Kereh, Inc. (03 4819)

CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

1941-1 MODERN BOLLINGER TRAIL DRIVE, FLORIDA 33904 (239) 461-1331

DATE	PROJECT NO.	ISSUED BY	SCALE	SHEET	TOTAL NO. SHEETS
01-20-08	34123	J.N.	1"= 15'	35 OF 35	4-4-24