

DECLARATION OF CONDOMINIUM

OF

SUMMERWINDS, A CONDOMINIUM

Panama City Beach, Florida

MADE THIS 13<sup>th</sup> day of September, 1993, by KENNETH EARL PADGETT, herein called the "Developer," for himself, his heirs, successors, grantees and assigns.

WHEREIN, the Developer makes the following declarations:

1. PURPOSE. The purpose of this Declaration is to submit the lands described in this instrument and the improvements on such lands to the condominium form of ownership and use in the manner provided by Chapter 718, Florida Statutes, hereinafter called the "Condominium Act."

A. Name and Address. The name by which this condominium is to be identified is "SummerWinds, A Condominium," hereinafter called "the condominium," and the condominium's address is 6323 Thomas Drive, Panama City Beach, Florida 32407.

B. The Land. The lands owned by the Developer, which by this instrument are submitted to the condominium form of ownership are the lands lying in Bay County, Florida more particularly described in Exhibit A hereto.

2. DEFINITIONS. The terms used in this Declaration and its exhibits shall have the meaning stated in the Condominium Act and as follows unless the context otherwise requires:

A. Apartment means unit as defined by the Condominium Act.

B. Apartment Owner means the unit owner as defined by the Condominium Act.

C. Association means SummerWinds Owners Association, Inc., a non-profit Florida corporation, and its successors.

D. Association Property includes that property, real and personal, in which title or ownership is vested in the Association for the use and benefit of its members.

E. Board of Directors means the board of administration responsible for the administration of the Association.

F. Bylaws means the Bylaws of the Association existing from time to time.

G. Common Elements shall include the tangible personal property required for the maintenance and operation of the condominium, and any land or other property acquired by the Association for the condominium, even though owned by the Association, as well as the items stated in the Condominium Act.

H. Common Expenses shall include expenses of administration; expenses of insurance; expenses of maintenance; operation, repair and replacement and betterment of the common elements and the portions of the unit to be maintained by the Association; expenditures or amounts of assessments by the Association for payment of cost that are the responsibility of an unit owner, including but not limited to costs of repair of damage to an unit in excess of insurance proceeds, and the costs of insurance upon an unit; expenses declared common by provisions of this Declaration and the Association's Bylaws and any valid charge against the condominium as a whole.

I. Common Surplus means the excess of all receipts of the Association collected on behalf of the Association including, but not limited to, assessments, rents, profits, revenues on account of the common elements, or any other source of income, over the common expenses.

J. Condominium means all the condominium property as a whole when the context so permits as well as the meaning stated in the Condominium Act.

K. Condominium Parcel means a unit, together with the undivided share in the common elements appurtenant to the unit.

L. Condominium Property means the lands, leaseholds and personal property that are subject 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.

M. Declaration or Declaration of Condominium means the instrument or instruments by which the condominium is created, as they may be from time to time amended.

N. Institutional Mortgagee means a bank, savings and loan association, an insurance company, a pension fund, a real estate investment trust, a mortgage banker, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage corporation, Federal or State agencies, or other like business entities holding a mortgage on an unit and insurers or guarantors of same.

O. Land means the surface of parcel of real property described on Exhibit A hereto, and shall include the air space lying above and subterranean space lying below such surface.

P. Number and Gender are used herein so that, when the context so permits, the use of the plural shall include the singular, the singular shall include the plural and the use of any gender shall be deemed to include all genders.

Q. Special Assessment means any assessment levied against unit owners other than the assessment required by a budget adopted annually.

R. Utility Services as used in the Condominium Act and as construed with reference to this condominium, and as used in the Declaration and Bylaws, shall include but not be limited to, electric power, gas, hot and cold water, heating, refrigeration, air conditioning, cable television, garbage, telephone and sewage disposal.

S. Voting Certificate means a document which designates one of the record title owners, or the corporate, partnership, or entity representative who is authorized to vote on behalf of a condominium unit owned by more than one owner or by any entity.

T. Voting Interest means the voting rights distributed to the Association members pursuant to Section 718.104(4)(i), Florida Statutes.

3. SUMMERWINDS DEVELOPMENT PLAN. The subject condominium is described and established as follows:

A. Survey. The survey of the land upon which the condominium shall be constructed is attached as Exhibit B. SummerWinds is a condominium consisting of two (2) separate buildings comprising the condominium units, which shall jointly share in the use of a recreation building adjacent to the two towers.

B. Plans. Improvements upon the land are constructed substantially in accordance with the graphic description of the improvements attached hereto as composite Exhibit C.

C. Amendment of Plans.

(1) Alteration of Plans. Developer reserves the right to make non-material changes in the interior design and arrangement of all units, and to make non-material alterations to the boundaries between the units, as long as Developer owns the units so altered. No such change shall increase the number of units nor alter the boundaries of the common elements without amendment of this Declaration by approval of the Association, unit owners and owners of mortgages in the manner elsewhere provided. If Developer shall make any changes in units so authorized, such changes shall be reflected by amendment of this Declaration.

(2) Amendment of Declaration. An amendment of this Declaration reflecting such authorized alteration of unit plans by Developer needs to be signed and acknowledged only by the Developer and need not be approved by the Association, unit owners or lienors or mortgagees of units or of the condominium, whether or not elsewhere required for an amendment.

D. Easements.

(1) Utility Easements. Easements are reserved through the condominium property as may be required for utility service or ingress and egress to serve the condominium adequately and the

Association may grant permits, licenses and easements over, under or upon the common elements for utilities, ingress and egress or other purposes reasonably necessary or useful for the proper maintenance or operation of the condominium. Provided, however, such easements to an unit shall be only according to the plans and specifications for the unit building, or as the building is constructed, unless approved in writing by the unit owner.

(2) Cross Easements. Easements are hereby created in favor of all unit owners in any condominium which may from time to time grant reciprocal easements to the unit owners of this condominium for pedestrian and vehicular ingress and egress and for ingress and egress to provide power, electric, telephone, sewer, water and other utility services and lighting facilities, irrigation, television transmission facilities, security service and facilities in connection therewith and other similar purposes; or any one or all of the foregoing. Developer, for himself, his nominee and the Association, reserves the right to impose upon the common elements henceforth and from time to time such easements and cross easements for any of the foregoing purposes as it deems to be in the best interest of and necessary and proper for the owners of units in this condominium or such other condominiums as may from time to time grant reciprocal cross easements to the unit owners of this condominium.

(3) Easements for Encroachments. All the condominium property shall be subject to the easements for encroachments which now exist or hereafter exist, caused by settlement or movement of a building, or caused by minor inaccuracies in building or rebuilding, which encroachments shall be permitted to remain undisturbed and such shall continue until such encroachments no longer exist.

(4) Ingress and Egress Easement. Each unit owner of the condominium shall have a non-exclusive easement for ingress and egress between said unit and the public roads and streets serving the condominium, over the halls, corridors, stairs, walks, driveways, parking areas, exterior access and other portions of the common elements of the condominium.

(5) Easements as Appurtenances. The easements and other rights created herein for an unit owner shall be appurtenant to the unit of that owner and all conveyances of title to the unit shall include a conveyance of the easements and rights as are herein provided, even though no specific reference to such easements and rights appears in any such instrument.

(6) Easement to Make Repairs. The Association shall have an easement with access to all units during reasonable business hours, when necessary, for the maintenance, repair, replacement of any and all common elements and for making emergency repairs, as allowed under Chapter 718, Florida Statutes.

(7) Conveyance. A conveyance to the State of Florida as shown in Deed Book 170, Page 427, public records of Bay County, Florida.

(8) Beach Access. The rights, if any, of the public to use as a public beach or recreational area, any part of the land lying between the Gulf of Mexico and the natural line of vegetation, bluff, sand dune, extreme high water line or other apparent boundary line separating any publicly used area from the upland private area. Any and all rights of the State of Florida or the United States of America over the navigable waters.

(9) Other Easements. Any other easements of record affecting the condominium property recorded in the Official Records Books, Public Records of Bay County, Florida.

E. Unit Boundaries. Each unit shall include that part of the building containing the unit that lies within the boundaries of the unit, which boundaries are as follows:

(1) Upper and Lower Boundaries. The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

(a) Upper Boundary - The horizontal plane of the undecorated finished ceiling.

(b) Lower Boundary - The horizontal plane of the undecorated finished floor.

(2) Perimetrical Boundaries. The perimetrical boundaries of the unit shall be the vertical planes of the undecorated finished interior of the walls bounding the unit extended to intersections with each other and with the upper and lower boundaries. When there is attached to the building a balcony, deck, patio, canopy, stairway or other portion of the building serving only the unit being bounded, the perimetrical boundaries shall be extended to include the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

F. Common Elements. The recreational areas and facilities and all personal property to be provided by the Developer, including the land and all the parts of the condominium not within the units, are to be owned as common elements by all unit owners. There shall be constructed two (2) unheated swimming pools for the use of the unit owners. The location of the swimming pools is outlined in the site plan attached as Exhibit C. Each pool has a capacity of serving 10 persons. The approximate size of each swimming pool is free form with a diameter of 16 feet. The depth of each pool ranges from 3' to 6'. There shall also exist a deck surrounding each pool with approximate square footage of 1,500 square feet per deck. Developer shall also furnish patio and pool furniture at a cost not to exceed \$5,000.00. The recreation building shall have an approximate square footage of 1,300 square feet, and consist of one office, one storage room, four toilets, a kitchen, a bar, and a clubhouse, for the use and enjoyment of the unit owners.

G. Time-Share Estates. No time-share estates will or may be created with respect to any units constructed in this condominium project.

4. THE UNIT. The units of the condominium are described more particularly and the rights and obligations of their owners established as follows:

A. Typical Unit Plans. There are three (3) unit floor plans which are generally described below and which are described in

more detail on the graphic description of the improvements attached as Exhibit C:

<u>TYPE</u>	<u>UNIT</u>	<u>DESCRIPTION</u>
A	2 Bedroom, 2 Bath 1,532 sq. ft.	Unit including living-dining room, kitchen, two bedrooms, two baths, utility, one balcony
B	3 Bedroom, 3 Bath 2,275 sq. ft.	Unit including living-dining room, kitchen, three bedrooms, three baths, utility, one balcony
C	3 Bedroom, 2 Bath 2,420 sq. ft.	Unit including living room, dining room, kitchen, three bedrooms, two baths, utility, one balcony

B. Unit Numbers. The units of the condominium are identified by the numbers set forth on the graphic description of the improvements attached hereto as Exhibit C.

C. Appurtenances to Units. The owner of each unit shall own a share and certain interest in the condominium property, which share and interest is appurtenant to the several units as:

(1) Common Elements and Common Surplus. An undivided share in the land and other common elements and the common surplus for each unit as is set forth in Exhibit D.

(2) Association Membership. The membership of each unit owner in the Association and the interest of each unit owner in the funds and assets held by the Association.

(3) Automobile Parking Spaces. Automobile parking spaces will be made available so that at least one automobile parking space will be available for use by each unit owner according to such reasonable rules and regulations as may from time to time be promulgated by the Association; provided, that at all times each unit owner shall be entitled to the use of at least one automobile parking space without charge. The parking spaces shall be common elements.

(4) Vote. Each unit shall be entitled to a voting interest of one (1) vote, said vote to be cast by the unit owner in the manner prescribed by the Bylaws of the Association.

D. Liability for Common Expense. Each unit shall be liable for an equal share of the common expenses, such share being the same as the undivided share in the common elements appurtenant to his



unit, as outlined in Exhibit D hereto. The cost of cable television service obtained by the Association shall be a common expense.

E. Maintenance, Alteration and Improvement.

Responsibility for the maintenance for the condominium property, and restrictions upon its alterations and improvements shall be as follows:

(1) Units.

(a) By the Association. The Association shall maintain, repair and replace as a common expense of this condominium:

(1) All portions of a unit except interior surfaces, contributing to the support of the unit building, which portion shall include but not be limited to the outside walls of the unit building and all fixtures on its exterior, boundary walls or units, floor and ceiling decking, load bearing columns and load bearing walls and all balconies, porches, patios, or similar facilities serving the unit;

(2) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in the portion of a unit maintained by the Association; and all such facilities contained within a unit that service part or parts of the condominium other than the unit within which contained;

(3) All portions of a unit which are damaged as a result of a casualty for which the Association has secured insurance coverage;

(4) All incidental damage caused to a unit by such work shall be repaired promptly at the expense of the Association.

(5) Notwithstanding the foregoing, the Association shall have the authority to require unit owners at their expense to maintain, repair and replace all windows, all exterior doors, including sliding glass doors, all screens and glass for windows or doors and all air conditioning and heating equipment, stoves, refrigerators, fans and other appliances and equipment, including pipes, wiring, ducts, fixtures or other facilities, required

to provide utilities to a unit, when any or all of the foregoing shall serve only one (1) unit. Further, unit owners shall be liable to the Association for any damage to the common elements (including garages) caused solely by the unit owners negligence.

(b) By the Unit Owner. The responsibility of the unit owner shall be as follows:

(1) To maintain, repair and replace at his expense all portions of his unit except the portion to be maintained, repaired and replaced by the Association, or, in the event damage resulting from casualty, that portion for which the Association has secured insurance coverage. Such shall be done without disturbing the rights of other unit owners.

(2) Except in the event of damage resulting from casualty for which the Association has secured insurance coverage, the portions of a unit to be maintained, repaired and replaced by a unit owner at his expense shall include but not be limited to the following: compressor and air handling equipment for space cooling and heating; service equipment such as dishwasher, refrigerator, compactor, disposal, oven and stove and hot water heater, whether or not built-in; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slab; and inside paint and other inside wall finishes.

(3) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the unit building, including any balcony, porch, garage, patio or similar facility whether a part of the unit or not, in any manner whatsoever without the prior written consent of the Board of Directors of the Association, including installation of television antennas.

(4) To promptly report to the Association any defect or need for repairs for which the Association is responsible.

(5) Not to post any signs or advertising devices for sale, lease or rent of the owner's unit or any other

condominium property, excluding the Developer, without the prior written consent of the Association.

(c) Alteration and Improvement. Neither any unit owner nor the Association shall make any alteration in the portions of any unit building that are to be maintained by the Association, or remove any portion of such, or make any additions to them, or to do anything that would jeopardize the safety or soundness of the unit building, or impair any easement, without first obtaining approval in writing of owners of all units in which such work is to be done and the approval of the Board of Directors of the Association. The Association may require that a copy of plans of all such work prepared by an architect licensed to practice in this state shall be filed with the Association prior to the start of work.

(2) Common Elements.

(a) By the Association. The maintenance and operation of the common elements shall be the responsibility of the Association and a common expense of this condominium.

(b) Alteration and Improvement. After the completion of the improvements included in the common elements contemplated by this Declaration, there shall be no substantial alteration nor further substantial improvement of the real property constituting the common elements without prior approval in writing by the owners of not less than two-thirds (2/3) of the common elements except as provided by the Bylaws. Any such alteration or improvement shall not interfere with the rights of any unit owner without their consent. The cost of such alterations or improvements shall be assessed equally to the unit owners. The alterations or improvements shall be constructed in similiar conformity with the existing common elements and shall be constructed with a minimal of interference and interruption to the enjoyment of the condominium property by the unit owners.

5. ASSESSMENTS. The making and collection of assessments against unit owners for common expenses shall be pursuant to the Bylaws and subject to the following provisions:

A. Share of Common Expenses. Each unit owner shall be liable for an equal share of the common expenses and shall share in the common surplus, such share being the same as the undivided share in the common elements appurtenant to his unit. A unit owner, regardless of how title is acquired, including, without limitation, a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the owner of a unit. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

B. Non Waiver. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessment is made.

C. Liability of Developer. In compliance with the Condominium Act, Chapter 718, Florida Statutes, the Developer shall be excused from the payment of assessments for common expenses assessed to any unit owned by the Developer during the period beginning with the recording of the Declaration of Condominium and unless extended as hereafter provided, terminating not later than one (1) calendar year thereafter or upon the transfer of control of the Association to unit owners other than the Developer, whichever occurs first. During this period, the Developer guarantees that the assessments for common expenses, without reserves, imposed on the unit owners other than the Developer shall not increase over the dollar amount of \$215.56 per month per unit. The Developer shall pay any amount of common expenses incurred during the period and not produced

by the assessments at the guaranteed level receivable from other unit owners. Upon termination of this guarantee, the Developer shall pay assessments for common expenses for units owned by the Developer, as outlined in the Declaration of Condominium. Notwithstanding anything to the contrary herein provided regarding the expiration of the guarantee period, the Developer may extend the initial one-year guarantee period (or subsequent guarantee periods) to provide one or more additional one year guarantee periods upon like terms and conditions as herein provided. To effect such extension, Developer shall file written notice thereof with the Secretary of the Association who shall file or cause said notice to be filed with the minutes of the Association's Board of Directors.

D. Operating Capital. Each purchaser of a unit from the Developer will pay to the Association a sum equal to two month's maintenance fee on his unit as a contribution towards operating capital of the Association.

E. Interest; Application of Payment. Assessments and installments on such assessments paid on or before ten (10) days after the date when due shall not bear interest but all sums not paid on or after ten (10) days after the date when due shall bear interest at the eighteen (18%) percent from the date when due until paid. All payments upon accounts shall be first applied to interest, then to late fees, then to any costs and reasonable attorney's fees, and then to the delinquent assessment.

F. Lien for Assessments. The Association shall have a lien on each condominium parcel for any unpaid assessments, together with interest at eighteen (18%) percent per annum thereon, against the owner of such condominium parcel. The Association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25.00 or 5% of each installment of the assessment for each delinquent installment that the payment is late. Distribution of payment shall be in accordance with the Act. Reasonable attorney's fees incurred by the Association incident to the collection of such assessment or the enforcement of such lien,

together with all unpaid assessments, interest and costs, shall be payable by the unit owner and secured by such lien. The Association's liens shall also include those sums advanced on behalf of each unit owner in payment of his obligation for common expenses incurred pursuant to the Community property Agreement or other use charges and operation costs designated by this Declaration as common expenses.

The Association's lien is effective from and shall relate back to April 1, 1992 or the recording of the Declaration, whichever shall last occur. The Association shall file a claim of lien with the public records of Bay County, Florida, stating the description of the condominium parcel, the name of the record owner, the amount due and the date when due, and the lien shall continue in effect for a period of one (1) year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall be signed and acknowledged by an officer or agent of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of the lien.

G. Collection and Foreclosure. The Board of Directors may take such action as they deem necessary to collect assessments of the Association by personal action or by enforcing and foreclosing the Association's lien, and may settle and compromise same, if in the best interest of the Association. The Association's lien shall be effective as and in the manner provided for by the Condominium Act, and shall have the priorities established by the Act. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and to apply as a cash credit against its bid, all sums due the Association covered by the lien enforced.

H. Liability of Mortgagee. The rights and responsibilities of mortgagees are outlined in Paragraph 13 of this Declaration.

I. Certificate. Within fifteen (15) days after request by a unit owner or unit mortgagee, the Association shall provide a certificate stating all assessments and other moneys owed to the

Association by the unit owner with respect to the condominium parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.

6. ASSOCIATION. The operation of the condominium shall be by SummerWinds Owners Association, Inc., a corporation not for profit under the laws of the State of Florida, which shall fulfill its functions pursuant to the following provisions:

A. Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached and made a part hereof as Exhibit F.

B. Bylaws. The Bylaws of the Association shall be the Bylaws of the condominium, a copy of which is attached and made a part hereof as Exhibit G.

C. 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 the cost of maintenance and repair, caused by any latent conditions of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

D. Restraint Upon Assignment of Shares in Assets. The Shares of members in the funds, assets and property rights of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his unit.

E. Approval or Disapproval of Matters. Whenever the decision of an unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by the Declaration.

7. INSURANCE. The insurance other than title insurance that shall be carried on the Association and Condominium property and the property of the unit owners shall be governed by the following provisions:

A. Authority to Purchase; Named Insured. All insurance policies upon the Association and Condominium property shall be purchased by the Association. The named insured shall be the Association individually and as agent for the unit owners, without naming them, and as agent for their mortgagees. Provision shall be made for the issuance of mortgagee endorsements and memoranda of insurance to the mortgagees of unit owners. Such policies shall provide that payments by the insurer for losses shall be made to the Association, or if required by the holder of the first mortgage on one of the units, an insurance trustee designated by the Association, and all policies and their endorsements shall be deposited with the Association or, if applicable, the insurance trustee. Unit owners may obtain coverage at their own expense upon their personal property and for their personal liability and living expense.

B. Coverage.

(1) Casualty. All building and improvements upon the land shall be insured in an amount equal to the maximum insurable replacement value except, in the case of flood insurance, the amount shall not be required to exceed the amounts available under the National Flood Insurance Program or its successor, and all personal property included in the common elements shall be insured for its value, all as determined annually by the Board of Directors of the Association with such deductible clauses required to obtain coverage at a reasonable cost. Such coverage shall afford protection against:

(a) Loss or damage by fire or other hazards covered by a standard extended coverage or other perils endorsement.

(b) Such other risks as from time to time shall be customarily covered with respect to buildings on the land, including but not limited to vandalism and malicious mischief, windstorm and flooding.

(c) Insurance policies providing casualty coverages pursuant to 7.B.(1)(a) and (b) above shall provide that the word "building" wherever used in the policy shall include, but shall not necessarily be limited to, fixtures, installations, or additions



comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors and ceiling of the individual units initially installed or replacements thereof of like kind and quality, in accordance with the original plans and specifications or as existed at the time the unit was initially conveyed if the original plans and specifications are not available. However, the word "building" shall not include floor coverings, wall coverings or ceiling coverings, and as to contracts entered into after July 1, 1992, does not include the following equipment if it is located within a unit and the unit owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioner or heater equipment, water heaters, or built-in cabinets. With respect to the coverage provided for by this paragraph, the unit owners shall be considered additional insureds under the policy. Every insurance policy issued to an individual unit owner shall provide that the coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the Association. Further, such policies, when appropriate and possible, shall waive the insurer's right to avoid liability for a loss that is caused by an act of the Board of Directors of the Association or a director or one or more unit owners.

(2) Liability. The Association may also obtain and maintain liability insurance for Directors and Officers and insurance for the benefit of the Association employees.

(3) Workmen's Compensation. Workmen's compensation policy, if required to meet the requirements of law.

(4) Other. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

C. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense of this condominium.

D. Insurance Trustees; Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the

Association and the unit owners and their mortgagees as their interest may appear, and shall provide that all proceeds covering property losses shall be paid to the Association or to such bank located in the State of Florida with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is referred to in this instrument as the insurance trustee. The insurance trustee shall not be liable for payment of premiums, nor the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the insurance trustee, or the Association if no insurance trustee is designated, shall be to receive such proceeds as are paid and to hold the proceeds in trust for the purpose elsewhere stated in this instrument and for the benefit of the unit owners and their mortgagees in the following shares but which shares need not be set forth on the records of the insurance trustee:

(1) Unit Owners. An undivided share for such unit owner; such share being the same as the undivided share in the common elements appurtenant to his unit.

(2) Mortgagees. In the event a mortgagee endorsement has been issued as to an unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interest may appear; provided, however, except as otherwise provided, 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 distributions of such proceeds made to the unit owner and mortgagee pursuant to the provisions of this Declaration.

E. Distribution of Proceeds. Proceeds of insurance policies received by the Association or the insurance trustee shall be distributed to or for the beneficial owners in the manner herein provided in "PARAGRAPH 8. RECONSTRUCTION OR REPAIR AFTER CASUALTY."

F. Association as Agent. The Association is irrevocably appointed agent for each unit owner and for each owner of a mortgage

or other lien upon an 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.

8. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

A. Determination to Reconstruct or Repair. If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner.

(1) Common Element. If the damaged improvement is a common element, other than an unit building, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

(2) Unit Building.

(a) Lesser Damage. If the damaged improvement is an unit building and if at least one-third (1/3) of all the units in the condominium are found by the Board of Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere that the condominium shall be terminated.

(b) Major Damage. If the damaged improvement is an unit building and if less than one-third (1/3) of all the units in the condominium are found by the Board of Directors of the Association to be tenantable, then the damaged property will be reconstructed or repaired, unless within sixty (60) days after the casualty the owners of three-fourths (3/4) of the units and the mortgagee holding the greatest number of recorded mortgages on all units consent in writing to terminate the condominium.

(3) Certificate. The insurance trustee 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.

B. Plans and Specifications. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached as exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is the unit building, by the owners of the units, which approval shall not be unreasonably withheld.

C. Responsibility. If the damage is not the result of a casualty for which the Association has secured insurance coverage and is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

D. Estimates of Costs. Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility for reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

E. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair by the Association, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, assessment shall be made against all unit owners in sufficient amounts to provide funds for the payment of such costs. Such assessments shall be in proportion to the owner's share in the common elements.

F. Construction Funds. The funds for payment of the costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Association or the insurance trustee and funds collected by the Association from assessments against unit owners shall be disbursed in payment of the costs in the following manner:

(1) Association. If the total assessments made by the Association in order to provide funds for payment of costs of reconstruction and repair that is the responsibility of the Association is more than Ten Thousand Dollars (\$10,000.00), then the sums paid upon such assessments shall be deposited by the Association with the insurance trustee if one has been designated. In all other cases, the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

(2) Construction Fund. The proceeds of insurance collected on account of a casualty, and the proceeds from collections of assessments against 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:

(a) Association Lesser Damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than Ten Thousand Dollars (\$10,000.00), then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request of a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such funds shall be disbursed in the manner provided for the reconstruction and repair of major damages.

(b) Association Major Damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is more than Ten Thousand Dollars (\$10,000.00), then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association upon approval by an architect qualified to practice in Florida and employed by the Association to supervise the work.

(c) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an unit owner shall be paid by the

Association or the insurance trustee to the unit owner, or if there is a mortgagee endorsement as to the unit, then to the unit owner and the mortgagee jointly, who may use such proceeds as they be advised.

(d) 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 construction fund after payment of all costs of 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 the part of a distribution to a beneficial owner that is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

(e) Certificate. Notwithstanding the provisions of this instrument, the insurance trustee shall not be required to determine whether or not sums paid by the unit owners upon assessments shall be deposited by the Association with the insurance trustee, nor to determine whether the disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid. Instead, 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 name of the payee and the amount to be paid; provided that when a mortgagee is required in this instrument to be named as payee, the insurance trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to an unit owner; and further provided that when the Association, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires the approval of an architect named by the Association upon disbursements in payment of costs of reconstruction and repair.

9. FINANCIAL STATEMENTS. The Division may require the Association to provide a complete set of financial statements for the preceding fiscal year. Immediately following the recording of the

Declaration, the Developer will vote to waive the audit requirement for the first two years of the operation of the Association. The requirement to have the financial statement compiled, reviewed or audited does not apply to Associations when a majority of the voting interests of the Association present at a duly-called meeting of the Association have determined for a fiscal year to waive this requirement.

10. USE RESTRICTIONS. The use of the condominium property shall be in accordance with the following provisions as long as the condominium exists and the unit building in useful condition exists on the land.

A. Units. Each of the units shall be occupied only as a residence and for no other purpose.

B. Common Elements. The common elements shall be used only for the purpose for which they are intended in the furnishing of services and facilities for the enjoyment of the units.

C. Nuisances. No nuisances shall be allowed upon the condominium property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist.

D. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the condominium property nor any part of it; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modifications or repair of the condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

E. Regulations. Reasonable regulations concerning the use of the condominium property may be made and amended from time to time by the Association in the manner provided by its Articles of

Incorporation and Bylaws. Copies of such regulations and amendments shall be furnished by the Association to all unit owners and residents of the condominium upon request.

F. Alterations. There shall be no material alteration or substantial additions to the common elements or to the real property which is Association property, except by approval of eighty (80%) percent of the total voting interests of the Association.

G. Leasing. Units may only be leased in strict accordance with Paragraph XVII of the Bylaws of the Association. Entire units shall only be leased.

H. Proviso. Provided, however, that until Developer has completed all of the contemplated improvements and closed the sales of all the units of the condominium, neither the unit owner nor the Association nor any use of the condominium shall interfere with the completion of the contemplated improvements and the sale of the units. Developer may make such use of the unsold units and common elements (at no cost to Developer) as may facilitate such completion and sale, including but not limited to maintenance of a sales office, the showing of the property and the display of signs. Any temporary or mobile sales office, the furniture and furnishings in any sales or rental office and in all model units, signs and all items pertaining to sales shall not be common elements but shall remain the property of the Developer.

11. LEASE RESTRICTIONS. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the lease of units shall be restricted. Any lease of a unit for less than ninety (90) consecutive days within a one (1) year period shall be wholly null and void and shall be considered a breach of the terms and conditions of the Declaration. The restrictions for the lease of units are more particularly in Paragraph XVII of the Bylaws, which are attached as Exhibit G hereto.



12. COMPLIANCE AND DEFAULT. Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation and Bylaws and regulations adopted pursuant to those documents, and all of such as they may be amended from time to time. Failure of an unit owner to comply with such documents and regulations shall entitle the Association or other unit owners to the following relief in addition to the remedies provided by the Condominium Act:

A. Negligence. An unit owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guest(s), but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

B. Costs and Attorney's Fees. In any proceeding arising because of an alleged failure of an unit owner or the Association to comply with the terms of the Declaration, Articles of Incorporation of the Association, the Bylaws or the regulations adopted pursuant to them, and the documents and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the Court.

C. No Waiver of Rights. The failure of the Association or any unit owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation of the Association, or the Bylaws shall not constitute a waiver of the right to do so thereafter.

13. SPECIFIC RIGHTS OF INSTITUTIONAL MORTGAGEES. In addition to the rights and privileges expressly granted to the mortgagees of condominium units in other Articles of this Declaration of Condominium, each and every institutional mortgagee shall have the following rights and entitlements:

A. Upon written request to the Association, the Association shall make available to institutional mortgagees current copies of the Declaration of Condominium and its Exhibits including

but not necessarily limited to the Bylaws and rules of the Association, and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

B. An institutional mortgagee shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year of the Association.

C. When a institutional mortgagee acquires title to a condominium parcel as a result of foreclosure of a mortgage or as a result of a deed given in lieu of foreclosure, the institutional mortgagee and its successors and assigns shall be liable for the share of common expenses or assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding six (6) months, but in no event does the first mortgagee's liability exceed one (1%) percent of the original mortgage debt. The first mortgagee's liability for such expenses or assessments does not commence until thirty (30) days after the date the first mortgagee received the last payment of principal or interest. In no event shall the mortgagee be liable for more than six (6) months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or one (1%) percent of the original mortgage debt, whichever amount is less. A second mortgagee who acquires title to the unit by foreclosure or deed in lieu of foreclosure and any and all other persons or entities who acquire title to a unit, shall be liable, jointly with grantor, for all unpaid assessments up to the time of the transfer of ownership or possession. All title to units taken by mortgagees or other third parties shall be subject to any claim of lien for assessments that is recorded prior to the recording of the mortgage or deed of the mortgagee or third party. Any and all unpaid share of common expenses or assessments are common expenses collectable from all unit owners, including such acquirer and its successors and assigns. No mortgagee, whether an institutional

mortgagee or otherwise, acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, shall be, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, excused from the payment of some or all of the common expenses coming due during the period of such ownership.

D. Upon written request to the Association identifying the name and address of the institutional mortgagee, such institutional mortgagee will be entitled to timely written notice of the following:

(1) Any condemnation, loss or other casualty loss which affects a material portion of the condominium or any unit which is encumbered by a mortgage held by the institutional mortgagee.

(2) Any delinquency in the payment of assessments or common expenses owed by an owner of an unit subject to a mortgage held by an institutional mortgagee, which remains uncured for a period of sixty (60) days.

(3) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(4) Any proposed action which would require the consent of a specified percentage of mortgage holders.

14. AMENDMENTS. Except as elsewhere provided otherwise, this Declaration of Condominium may be amended in the following manner:

A. Notice. 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.

B. Adoption. A resolution for the adoption of a proposed amendment may be proposed by either the Board of Directors of the Association or by the members of the Association, at a meeting called for this purpose. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided such approval is delivered to the secretary at or prior to the meeting. Except as elsewhere provided, such approval must be either by:

(1) Approval by the owners of two-thirds (2/3) of the units; or

(2) Until the first election of Directors, only by all of the Directors, provided the amendment does not increase the number of units nor alter the boundaries of the common elements.

(3) If there is an omission or error in this Declaration of Condominium, or in other documents required by law to establish the condominium, the Association may correct the error or omission by an amendment to the Declaration, or the other documents required to create a condominium, and such amendment need only be approved by a majority of Directors when proposed by directors or by a majority of the voting interests when proposed by members of the Association. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of unit owners, unless the affected unit owners consent in writing. This subsection does not restrict the powers of the Association to otherwise amend the Declaration, or other documentation, but authorizes a simple process of amendment requiring a lesser vote for the purpose of curing defects, errors or omissions when the property rights of unit owners are not materially or adversely affected.

C. Form of Amendment. No provision to the Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text 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." Nonmaterial errors or omissions in the amendment

process shall not invalidate an otherwise properly promulgated amendment.

D. Proviso. Provided, however, that no amendment shall discriminate against any unit owner nor against any unit or class or group of units, unless the units so affected shall consent; and no amendment may change the configuration or size of any condominium unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the owner of the parcel shares the common expenses and owns the common surplus, unless the record owner of the unit and all record owners of liens on it join in the execution of the amendment and unless a majority of the record owners of all other units approve the amendment. The acquisition of property by the Association, and material alterations or substantial additions to such property or the common elements by the Association in accordance with §718.111(7) or §718.113 shall be deemed to constitute a material alteration or modification of the appurtenances to the units. Neither shall an amendment make any change in the section entitled "Insurance" nor in the section entitled "Reconstruction or Repair After Casualty" unless the record owners of all mortgages upon the condominium shall join in the execution of the amendment.

E. Mortgagees. Mortgagees of units shall not be required to join and/or consent to amendments to the Declaration, unless the requirement is limited to amendments materially affecting the rights or interests of the mortgagees, or otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and unless the requirement provides that the consent may not be unreasonably withheld.

F. Execution and Recording. A copy of each amendment shall be attached to or incorporated in a certificate certifying that the amendment was adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate is recorded in the public records of Bay County, Florida.

process shall not invalidate an otherwise properly promulgated amendment.

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15. STORMWATER MAINTENANCE FACILITY. The Association and the unit owners shall maintain the Stormwater Maintenance Facility which is located on the condominium property, in accordance with the Florida Department of Environmental Regulation and Florida law. The Association shall establish budget needs for the maintenance and care of the stormwater facility, as required under Florida law.

16. TERMINATION. In addition to the manner provided by the Condominium Act, the condominium will be terminated without agreement if it is determined in the manner elsewhere provided in this Declaration that the unit building shall not be reconstructed because of major damage.

17. 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 in this Declaration of Condominium or the exhibits thereto including the Articles of Incorporation, Bylaws and regulations of the Association shall not affect the validity of the remaining portions.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

Witnesses:

Patricia Kuhns  
Terri D. Hogwood

Kenneth Earl Padgett  
KENNETH EARL PADGETT

STATE OF FLORIDA .  
COUNTY OF Indian River

BEFORE ME, the undersigned authority, personally appeared Kenneth Earl Padgett, to me personally well known to be the person described in and who executed the foregoing Declaration of Condominium and acknowledged that he executed the same for the uses and purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 13<sup>th</sup> day of September, 1993.

Patricia Kuhns  
Notary Public



PATRICIA A. KUHNS  
MY COMMISSION # CC311752 EXPIRES  
August 29, 1997  
BONDED THRU TROY FAIR INSURANCE, INC.

My Commission Expires:

THIS INSTRUMENT PREPARED BY:  
BENNETT, LOGUE & BENNETT, CHARTERED  
Derrick Bennett  
Attorney at Law  
P. O. Box 2422  
Panama City, FL 32402

EXHIBIT A TO THE DECLARATION  
SUMMERWINDS, A CONDOMINIUM

el  
Kew  
Commencing at the Northwest Corner of Lot 11, Block 13,  
Plat of Gulf Lagoon Beach, as per Plat thereof recorded in  
Plat Book 8, Page 24, of the Public Records of Bay County,  
Florida; thence North 47°13'23" West along the South right-  
of-way line of Thomas Drive, 1801.65 feet to the Point of  
Beginning; thence continue North 47°13'23" West along said  
right-of-way line, 324.18 feet; thence South 42°46'37"  
West, 600 feet, more or less, to the waters edge of the  
Gulf of Mexico; thence Southeasterly along said waters  
edge, 324 feet, more or less, to a point which is South  
42°46'37" West of the Point of Beginning; thence North  
42°46'37" East, 600 feet, more or less, to the Point of  
Beginning. Being in and a part of Section 8, Township 4  
South, Range 15 West, Bay County, Florida.



EXHIBIT B TO THE DECLARATION  
SUMMERWINDS, A CONDOMINIUM

Surveyor's Certificate and Survey

SURVEYOR'S CERTIFICATE

STATE OF FLORIDA  
COUNTY OF BAY

BEFORE ME, the undersigned authority duly authorized to administer oaths and take acknowledgments, personally appeared \_\_\_\_\_, after first being cautioned and sworn, deposes and says:

1. That he is a duly registered surveyor under the laws of the State of Florida, his certificate of registration number being \_\_\_\_\_.

2. That the construction of the improvements described by the survey and the graphic description of the improvements attached to the Declaration of Condominium of SummerWinds, A Condominium, is substantially complete so that such material, together with the provisions of the Declaration describing the condominium property, is an accurate representation of the location and dimensions of the improvements, and the identification, location and dimensions of the common elements and each unit can be determined from these materials.

FURTHER AFFIANT SAITH NOT.

\_\_\_\_\_  
Registered Surveyor No. \_\_\_\_\_

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS \_\_\_\_ DAY  
OF \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

BOUNDARY AND TOPOGRAPHIC SURVEY WITH COASTAL CONSTRUCTION SETBACK

DESCRIPTION: (record)

Commencing at the Northwest Corner of Lot 11, Block 13, Plat of Gulf Lagoon Beach, as per Plat thereof recorded in Plat Book 8, Page 24, of the Public Records of Bay County, Florida; thence North 47°13'23"West along the South right of way line of Thomas Drive, 1801.65 feet to the POINT OF BEGINNING: Thence continue North 47°13'23"West along said right of way line, 324.18 feet; thence South 42°46'37"West, 600 feet, more or less, to the waters edge of the Gulf of Mexico; thence Southeasterly along said waters edge, 324 feet, more or less, to a point which is South 42°46'37"West of the point of beginning; thence North 42°46'37"East 600 feet, more or less, to the Point of Beginning. Being in a part of Section 8, Township 4 South, Range 15 West, Bay County, Florida.

SURVEYOR'S NOTES:

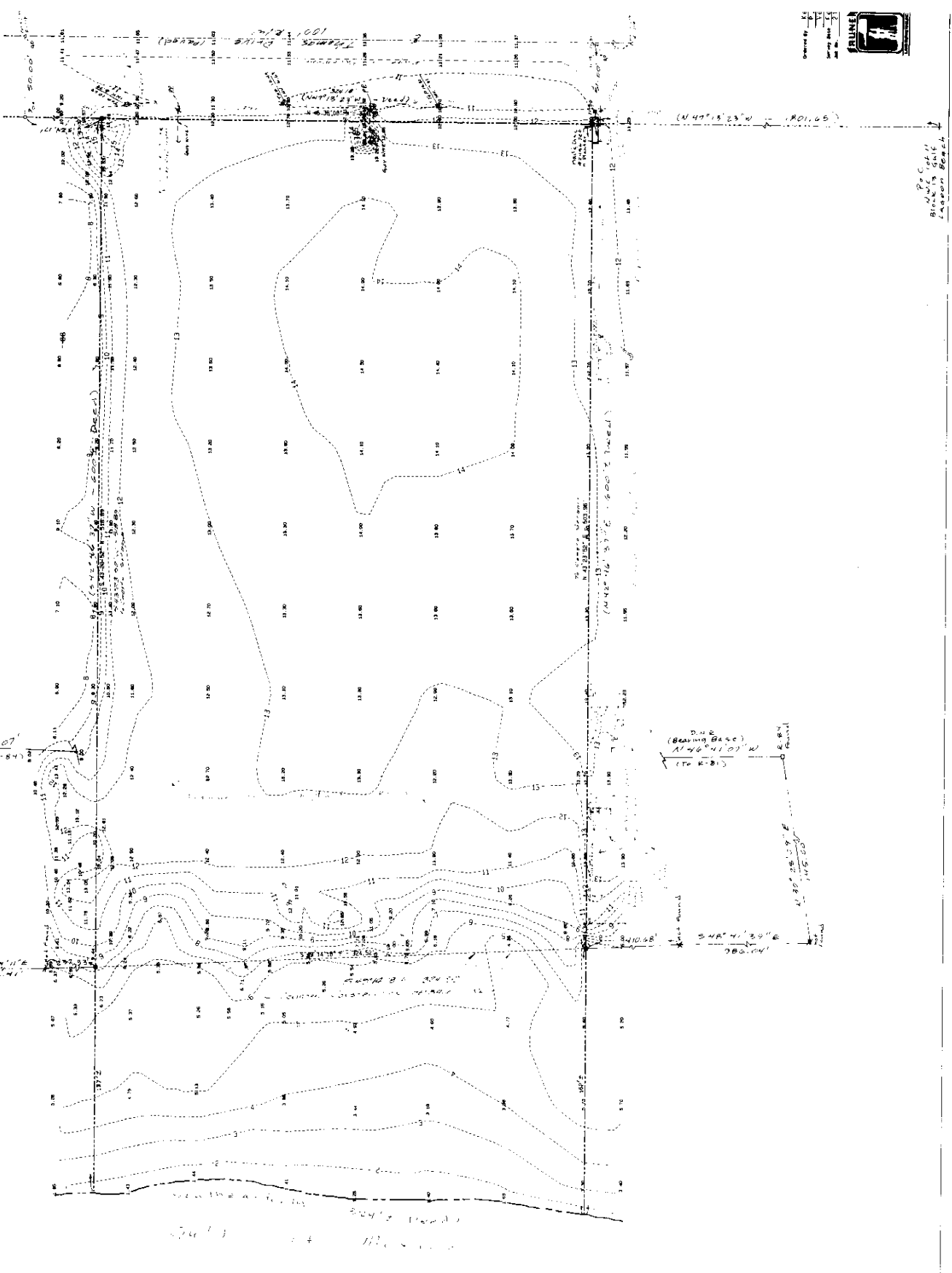
Reference to the DNR CCCL Map Dated June 12, 1975 for Bay County.  
State Plan coordinates referenced are those published for DNR monuments.

UTILITIES:

Sanitary Sewer- Panama City Beach, Force Main on the North side of  
pavement of Thomas Drive.

Water - Panama City Beach, 8" line on North side of pavement  
of Thomas Drive.

Electric - Overhead Electric adjacent to the Southerly right of  
way of Thomas Drive.



Drawn By: [Signature]  
 Survey Date: [Date]  
 Scale: [Scale]  
 Project: [Project Name]

P.O. Box 11  
 Bismarck, ND  
 Lagoon Beach

EXHIBIT C TO THE DECLARATION  
SUMMERWINDS, A CONDOMINIUM

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Pages 3-12	Floor Plans
Pages 13-15	Elevations

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Pages 13-15	Elevations



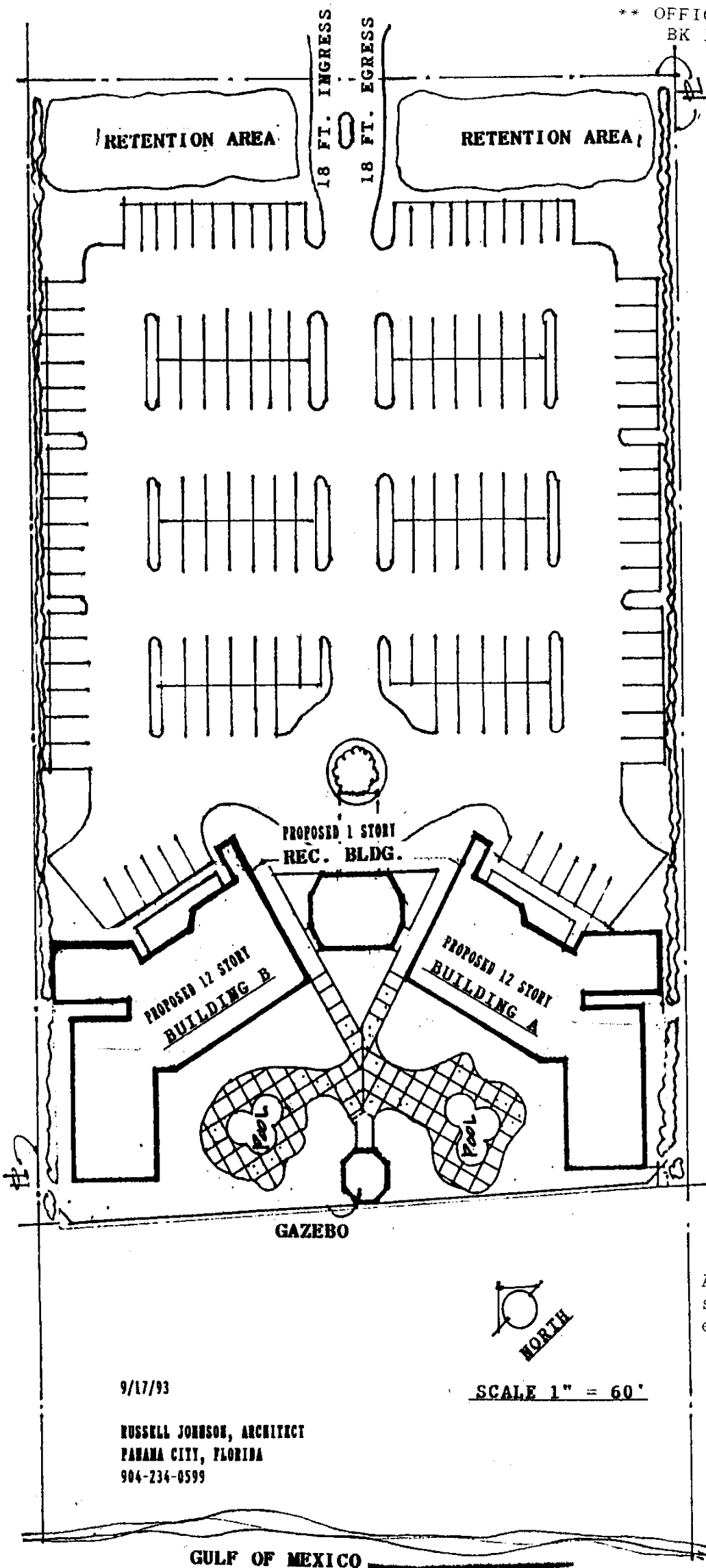
**SUMMERWINDS, A CONDOMINIUM**

**6323 THOMAS DRIVE  
PANAMA CITY BEACH, FLORIDA  
32407**

**INDEX:**

**PAGE: DESCRIPTION:**

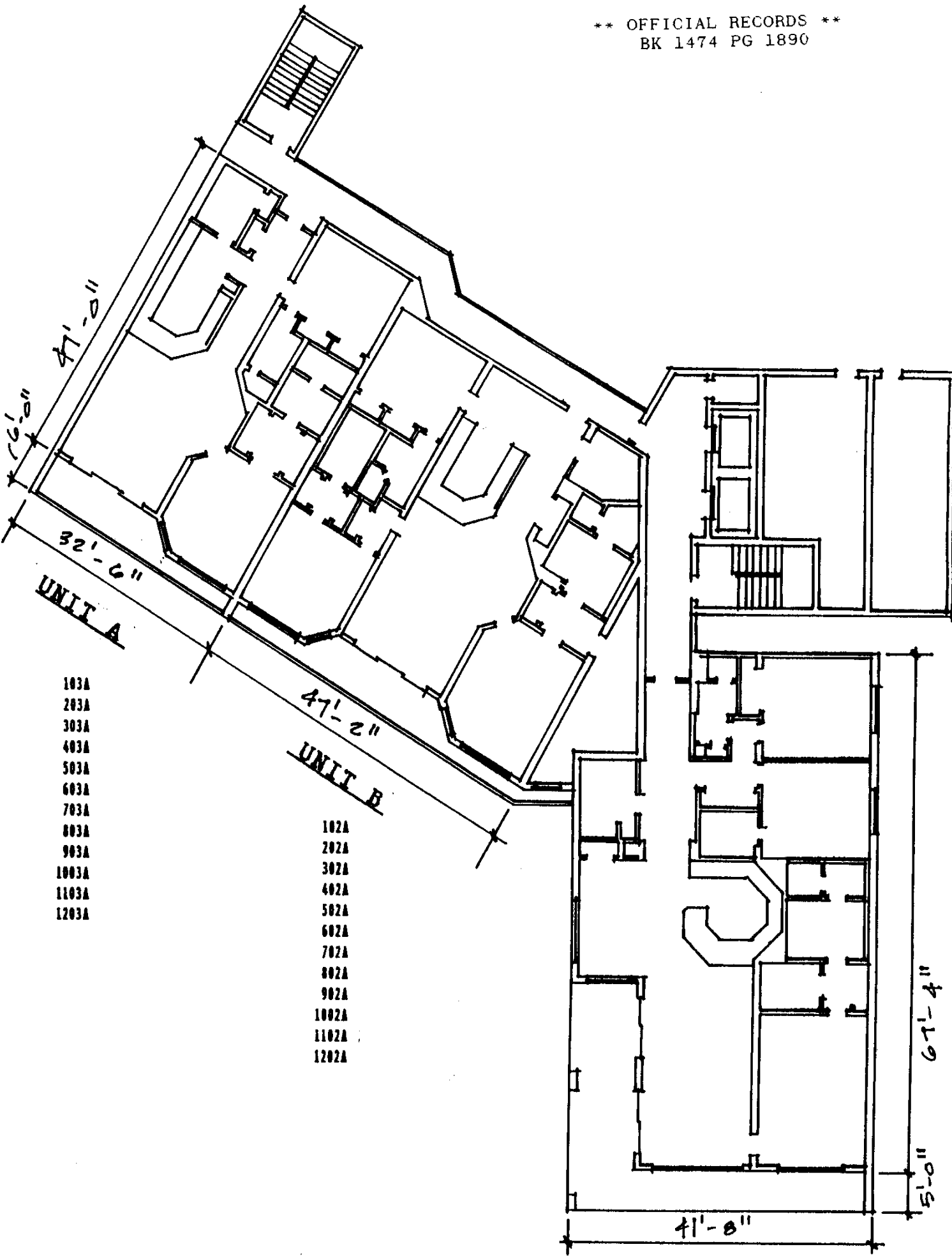
<b>1</b>	<b>COVER SHEET</b>
<b>2</b>	<b>SITE PLAN</b>
<b>3</b>	<b>BUILDING A EAST TOWER - FLOORS 1 THROUGH 12</b>
<b>4</b>	<b>BUILDING A EAST TOWER - UNIT TYPE A - UNITS 103A THROUGH 1203A</b>
<b>5</b>	<b>BUILDING A EAST TOWER - UNIT TYPE B - UNITS 102A THROUGH 1202A</b>
<b>6</b>	<b>BUILDING A EAST TOWER - UNIT TYPE C - UNITS 101A THROUGH 1201A</b>
<b>7</b>	<b>BUILDING A EAST TOWER - SERVICE CORE</b>
<b>8</b>	<b>BUILDING B WEST TOWER - FLOORS 1 THROUGH 12</b>
<b>9</b>	<b>BUILDING B WEST TOWER - UNIT TYPE A - UNITS 104B THROUGH 1204B</b>
<b>10</b>	<b>BUILDING B WEST TOWER - UNIT TYPE B - UNITS 105B THROUGH 1205B</b>
<b>11</b>	<b>BUILDING B WEST TOWER - UNIT TYPE C - UNITS 106B THROUGH 1206B</b>
<b>12</b>	<b>BUILDING B WEST TOWER - SERVICE CORE</b>



All property outlined herein shall be common elements, excluding individual units.

**SUMMERWINDS, A CONDOMINIUM**

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- 103A
- 203A
- 303A
- 403A
- 503A
- 603A
- 703A
- 803A
- 903A
- 1003A
- 1103A
- 1203A

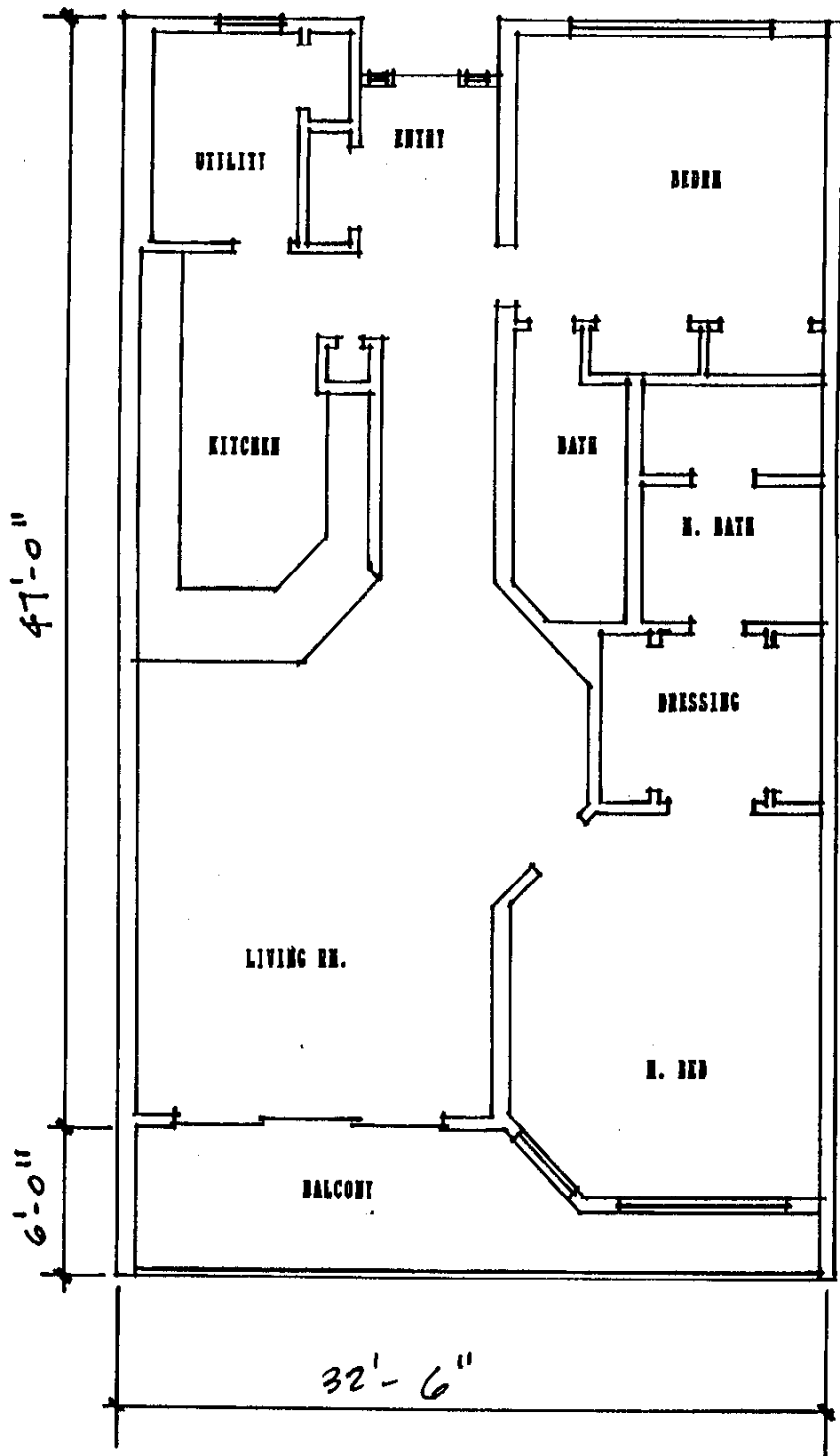
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- 202A
- 302A
- 402A
- 502A
- 602A
- 702A
- 802A
- 902A
- 1002A
- 1102A
- 1202A

- 101A
- 201A
- 301A
- 401A
- 501A
- 601A
- 701A
- 801A
- 901A
- 1001A
- 1101A
- 1201A

EAST TOWER - BUILDING A  
SCALE 1/16" = 1' - 0"

UNIT C

SUMMERWINDS, A CONDOMINIUM  
6323 THOMAS DRIVE  
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32407



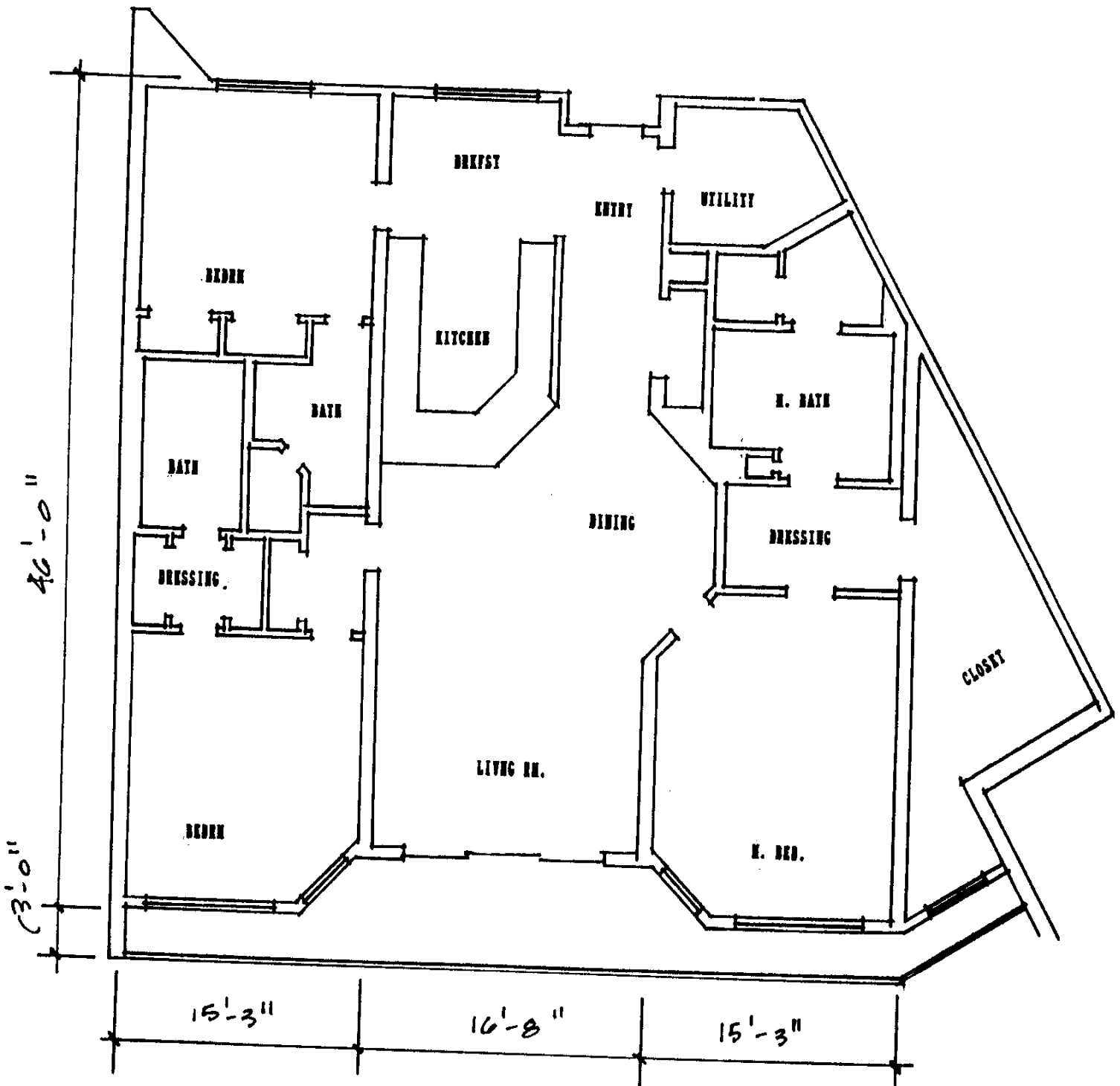
UNIT A - BUILDING A

103A  
203A  
303A  
403A  
503A  
603A  
703A  
803A  
903A  
1003A  
1103A  
1203A

SCALE 1/8" = 1' - 0"

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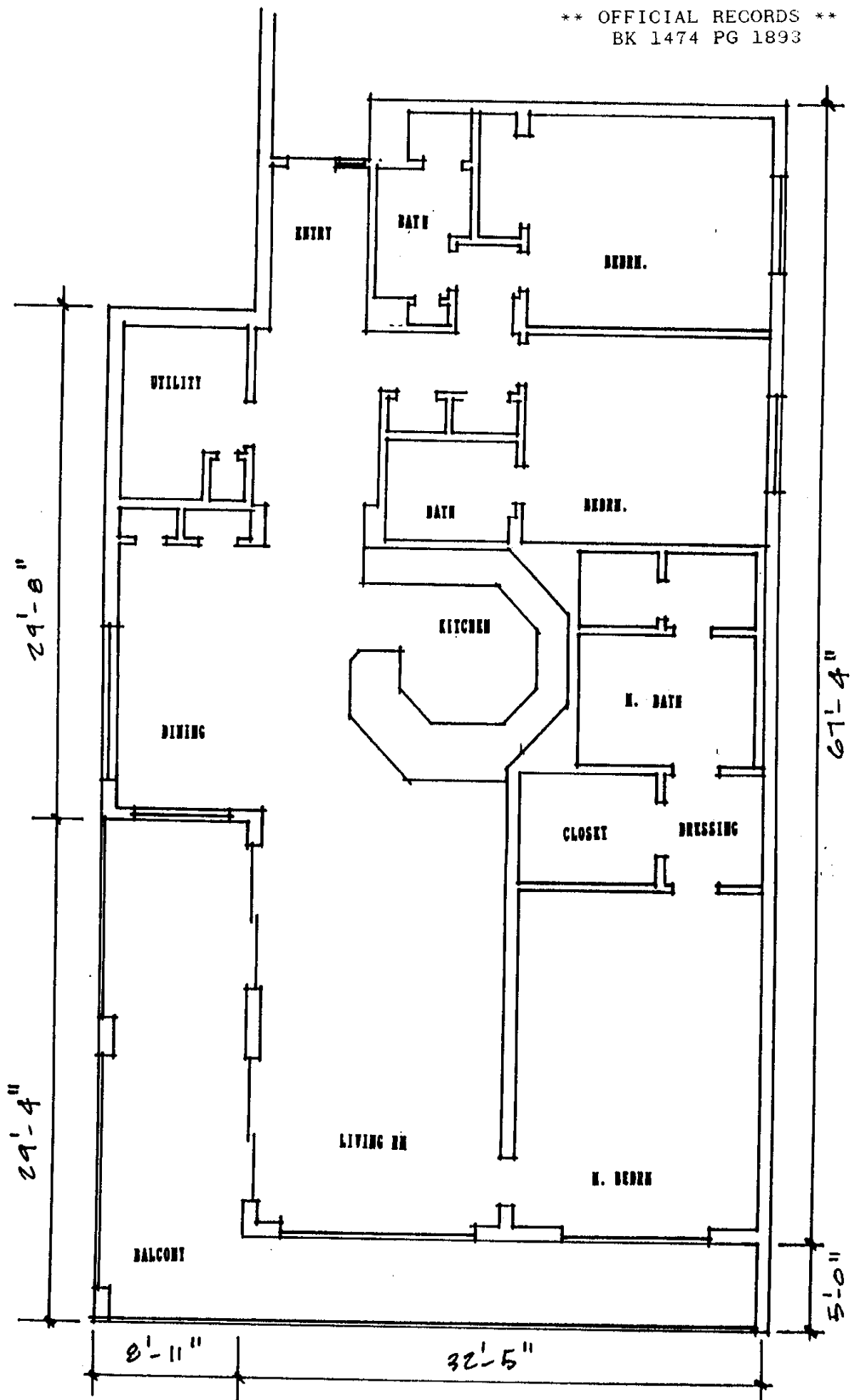
**UNIT B - BUILDING A**

102A  
202A  
302A  
402A  
502A  
602A  
702A  
802A  
902A  
1002A  
1102A  
1202A

**SCALE 1/8" = 1' - 0"**

**SUMMERWINDS, A CONDOMINIUM**

**6323 THOMAS DRIVE  
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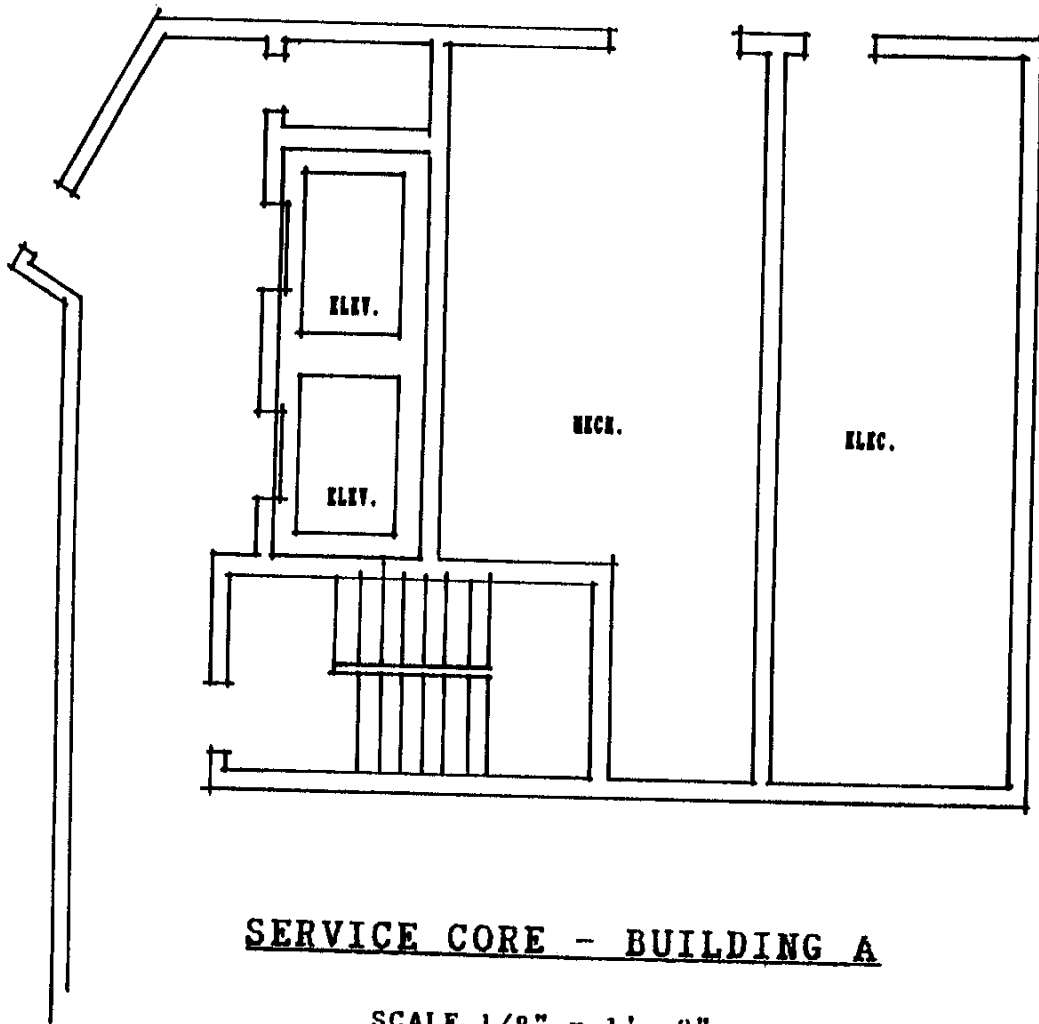
**UNIT C - BUILDING A**

**SCALE 1/8" = 1' - 0"**

**SUMMERWINDS, A CONDOMINIUM**

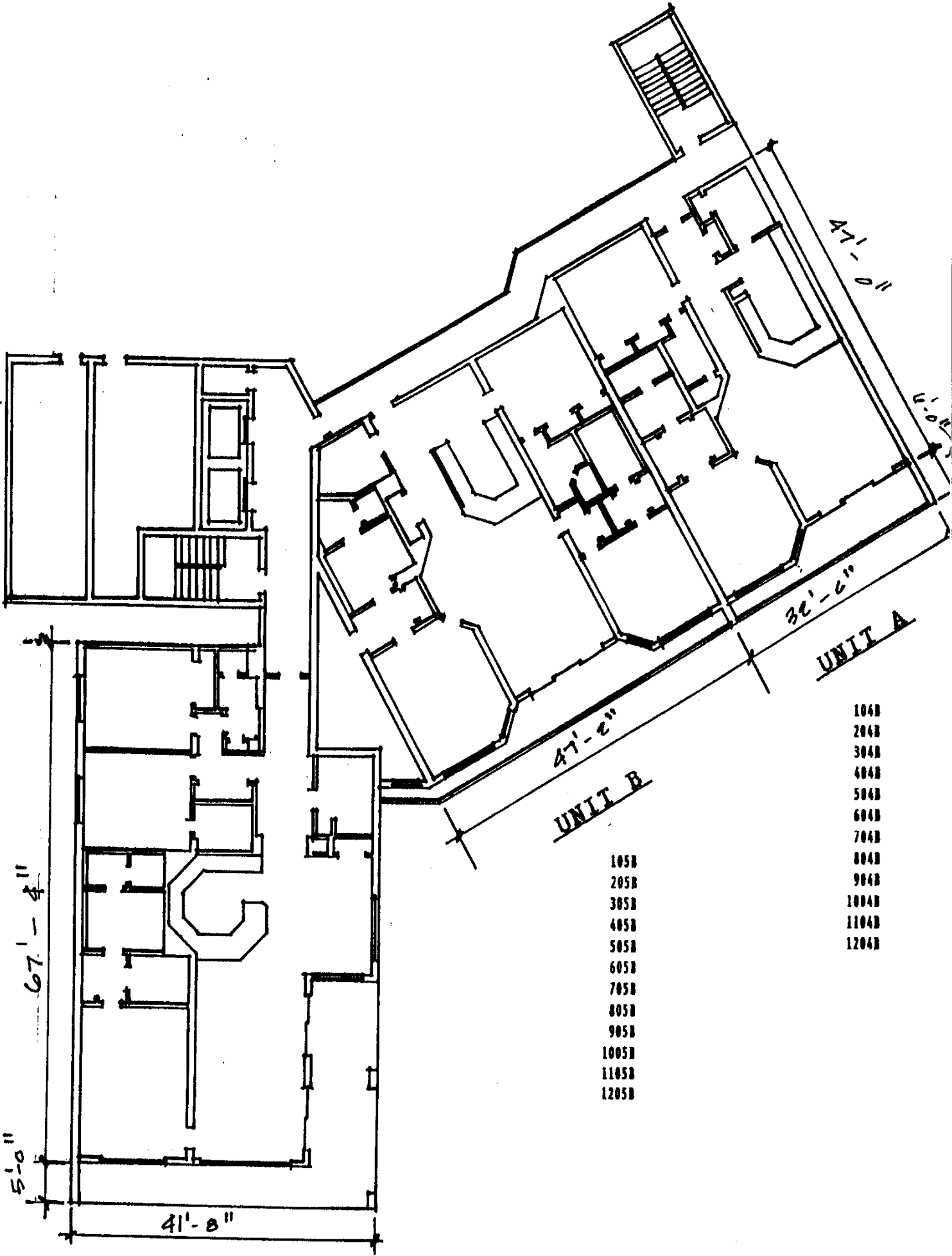
**6323 THOMAS DRIVE  
PANAMA CITY BEACH, FLORIDA  
32407**

101A  
201A  
301A  
401A  
501A  
601A  
701A  
801A  
901A  
1001A  
1101A  
1201A



**SUMMERWINDS, A CONDOMINIUM**

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UNIT C

106B  
206B  
306B  
406B  
506B  
606B  
706B  
806B  
906B  
1006B  
1106B  
1206B

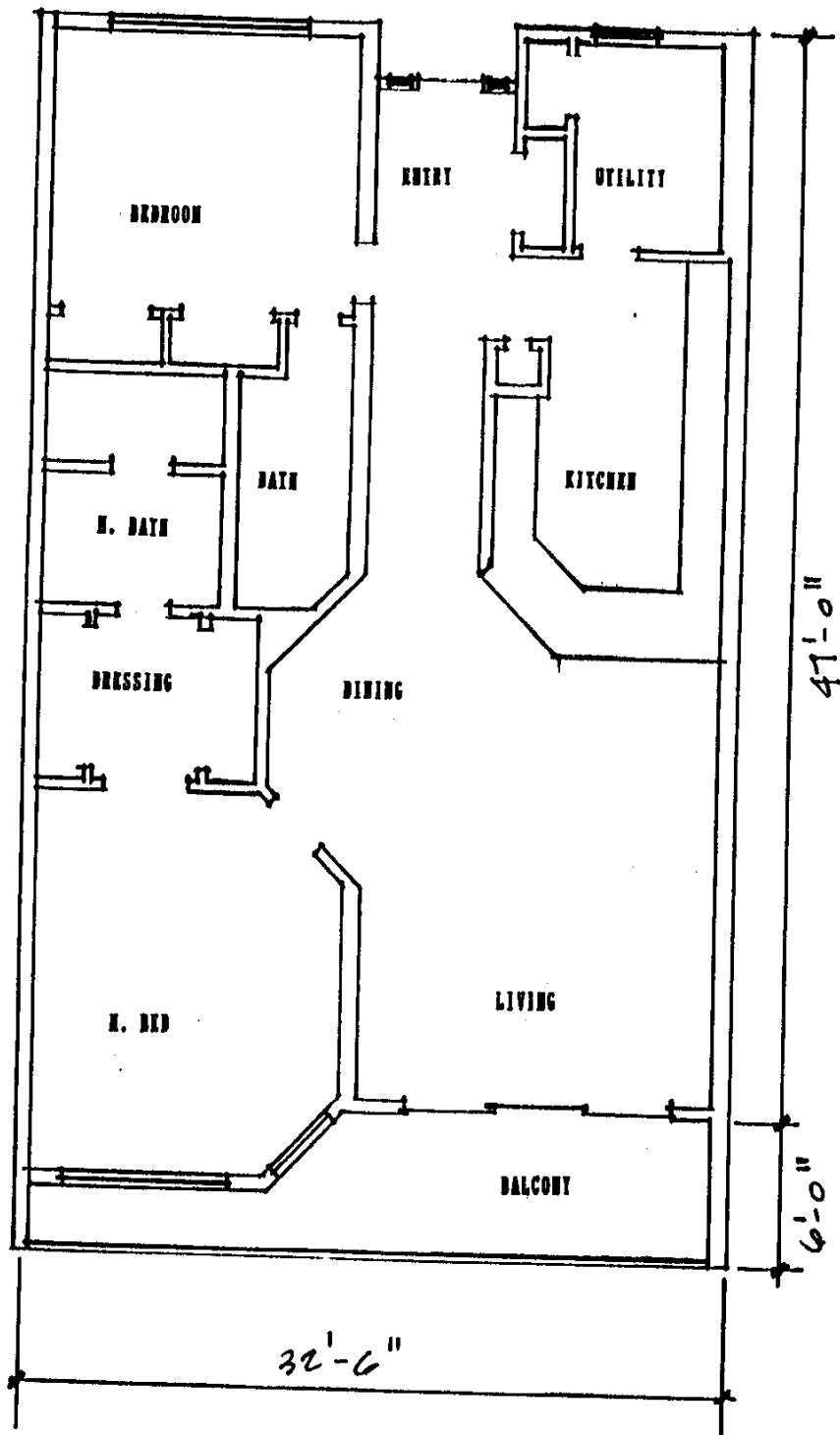
WEST TOWER - BUILDING B

SCALE 1/16" = 1' - 0"

SUMMERWINDS, A CONDOMINIUM

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PANAMA CITY BEACH, FLORIDA  
32407





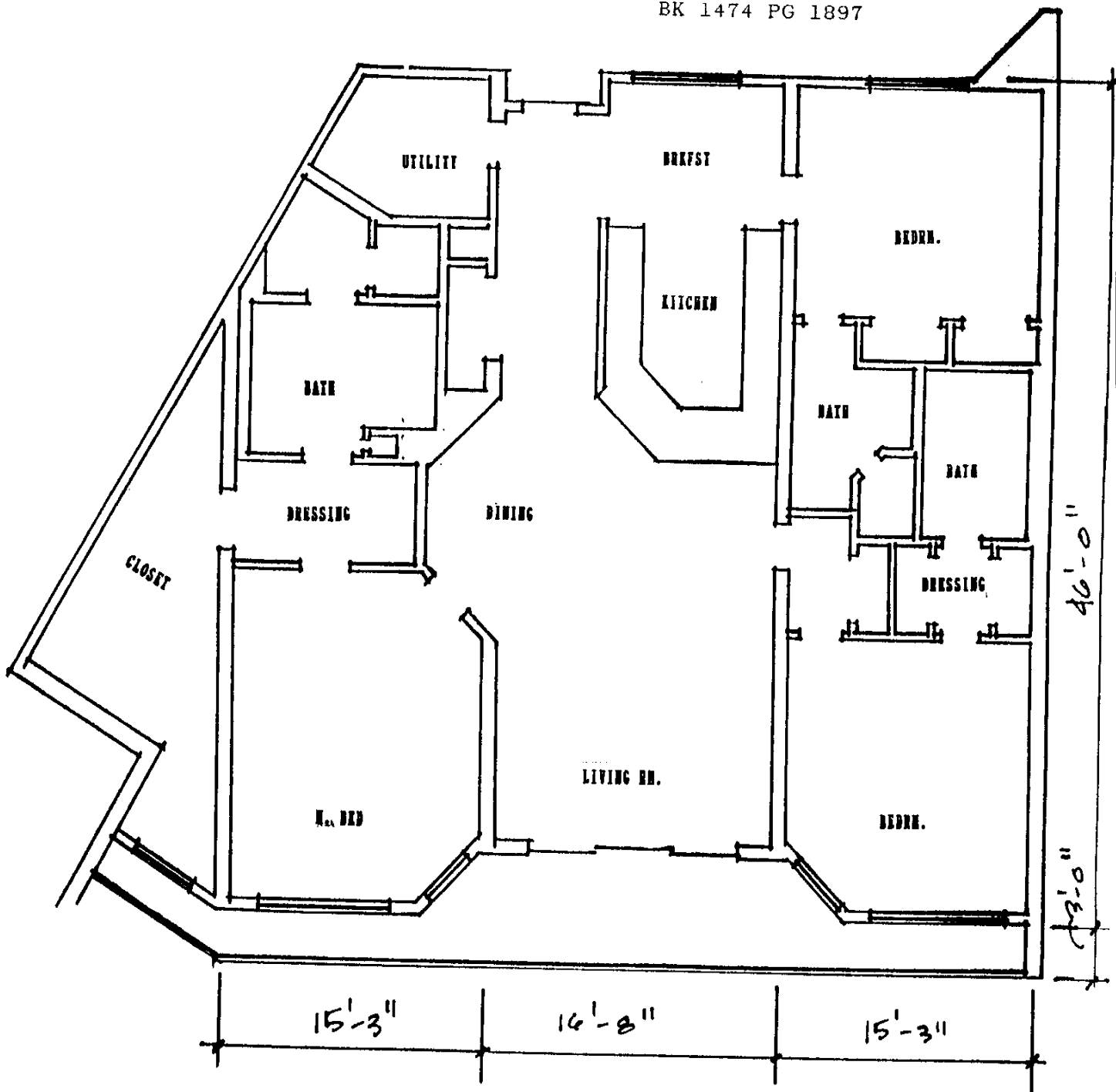
UNIT A - BUILDING B

104B  
204B  
304B  
404B  
504B  
604B  
704B  
804B  
904B  
1004B  
1104B  
1204B

SCALE 1/8" = 1' - 0"

SUMMERWINDS, A CONDOMINIUM

6323 THOMAS DRIVE  
PANAMA CITY BEACH, FLORIDA  
32407



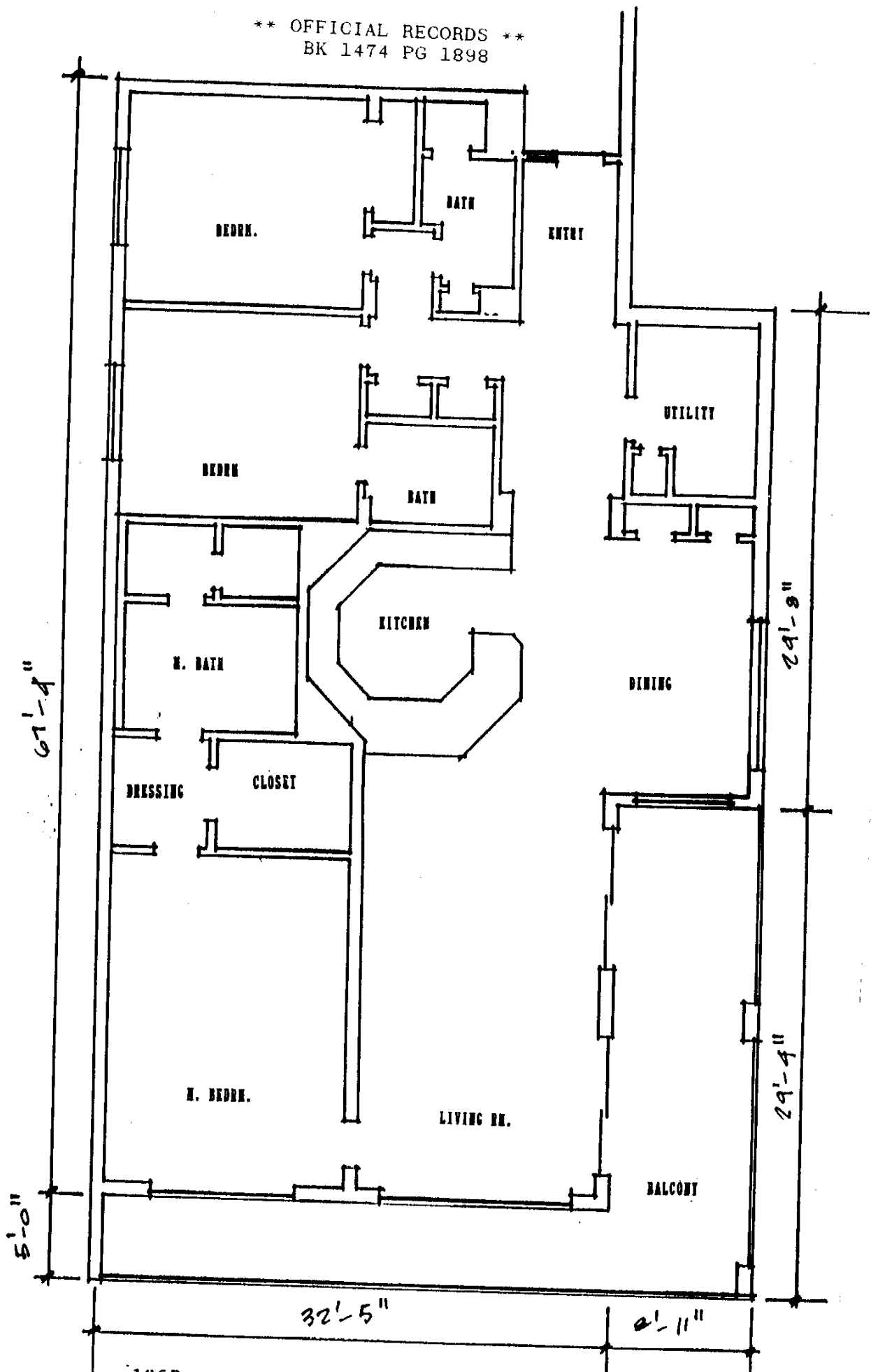
UNIT B - BUILDING B

105B  
205B  
305B  
405B  
505B  
605B  
705B  
805B  
905B  
1005B  
1105B  
1205B

SCALE 1/8" = 1' - 0"

SUMMERWINDS, A CONDOMINIUM

6323 THOMAS DRIVE  
PANAMA CITY BEACH, FLORIDA  
32407

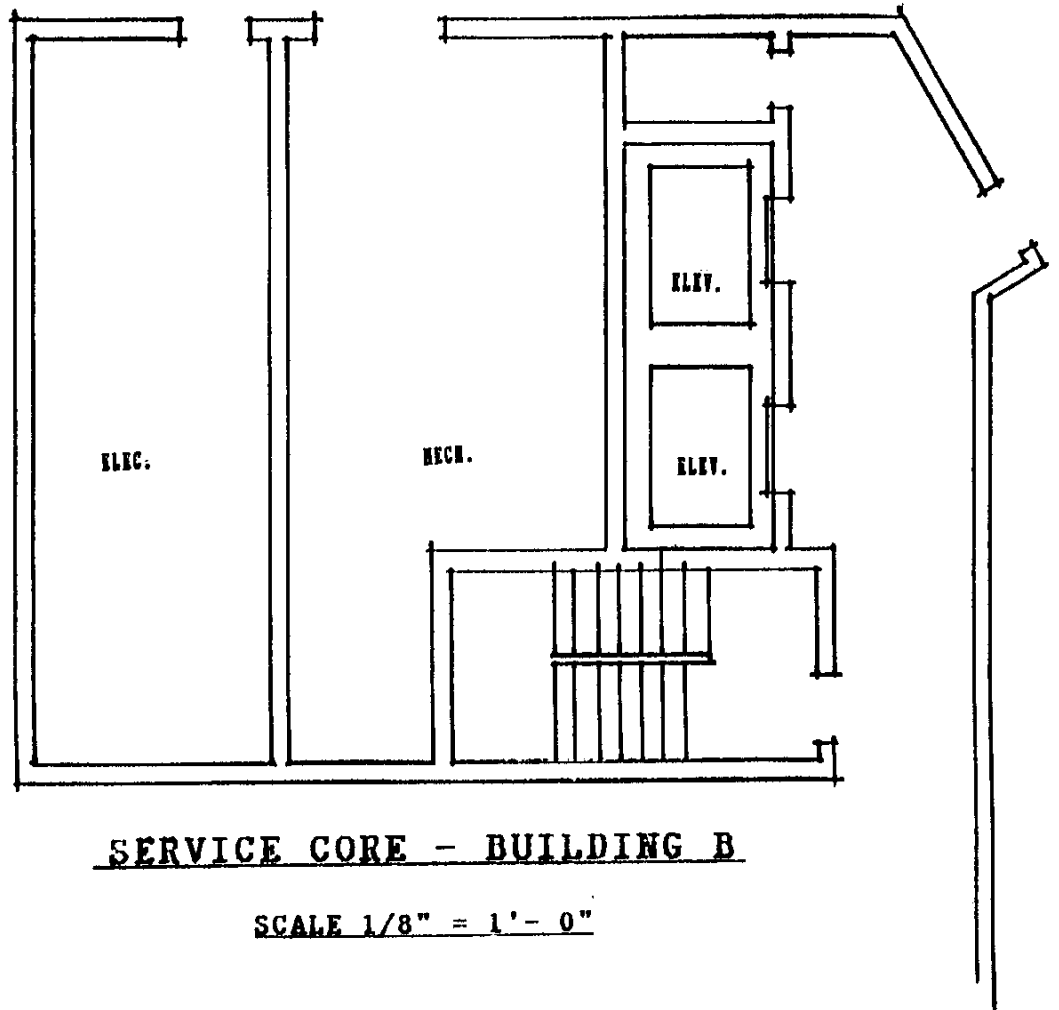


- 106B
- 206B
- 306B
- 406B
- 506B
- 606B
- 706B
- 806B
- 906B
- 1006B
- 1106B
- 1206B

UNIT C - BUILDING B

SCALE 1/8" = 1' - 0"

SUMMERWINDS, A CONDOMINIUM  
6323 THOMAS DRIVE  
PANAMA CITY BEACH, FLORIDA  
32407

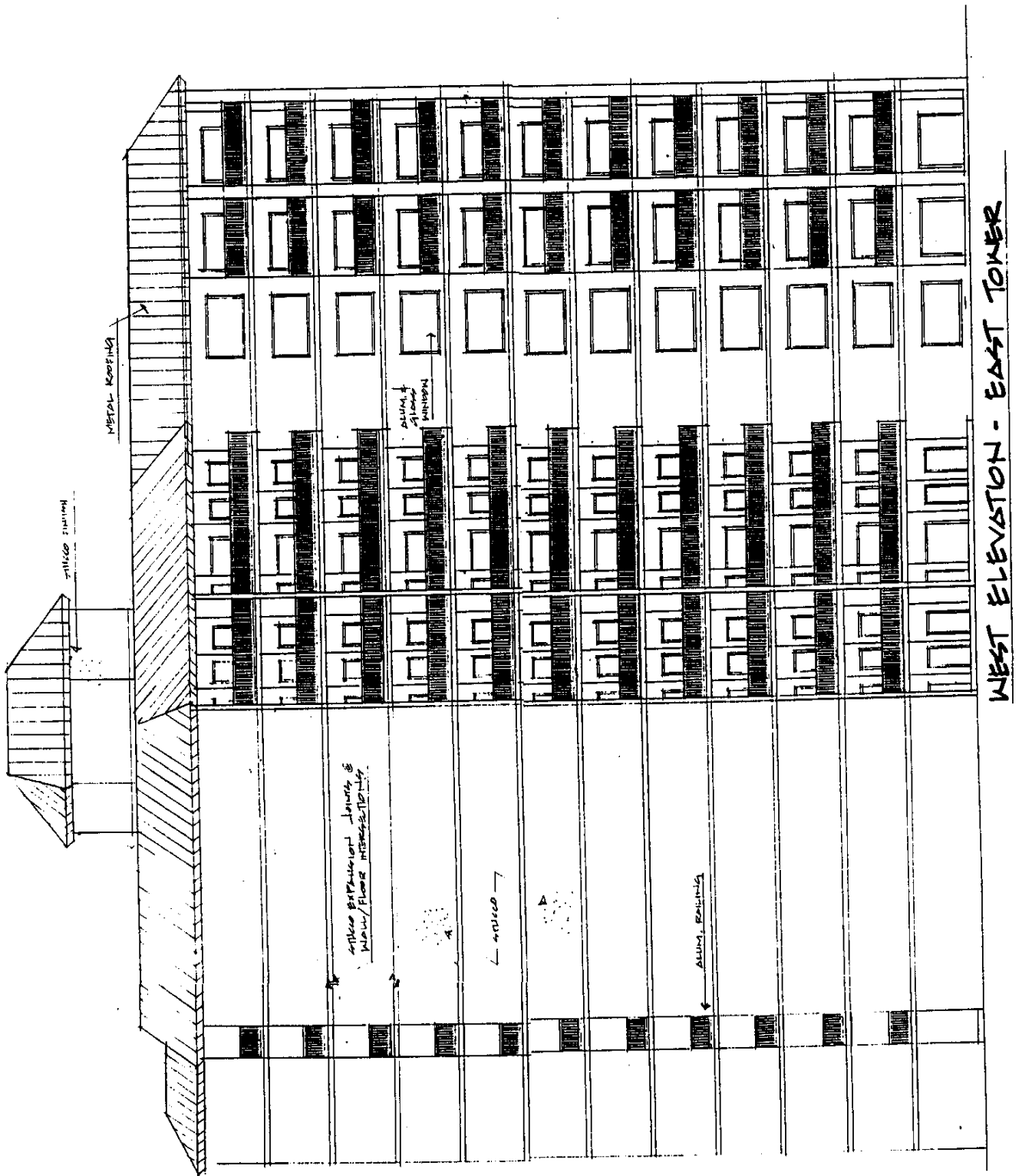


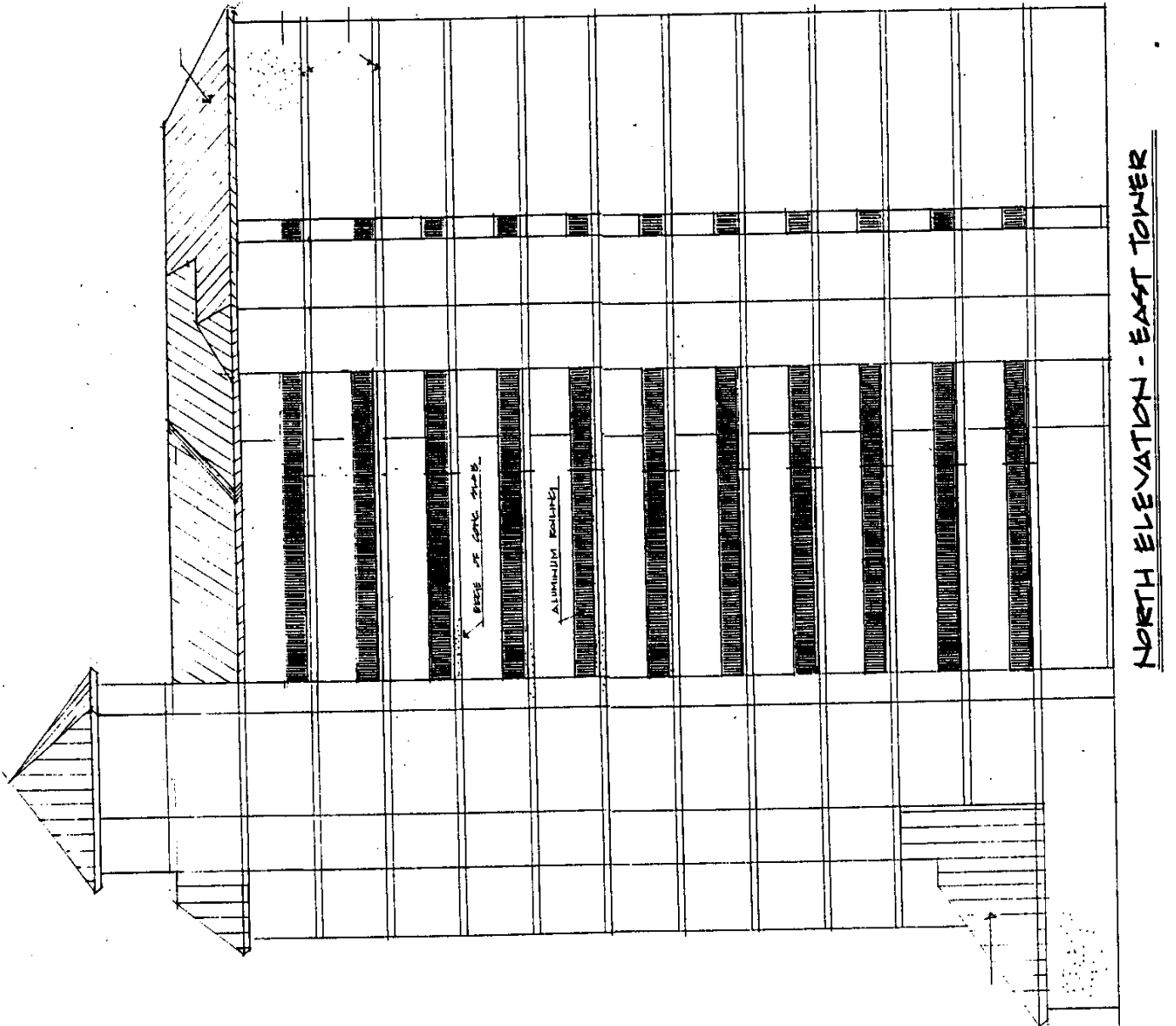
SERVICE CORE - BUILDING B

SCALE 1/8" = 1'-0"

SUMMERWINDS, A CONDOMINIUM

6323 THOMAS DRIVE  
PANAMA CITY BEACH, FLORIDA  
32407





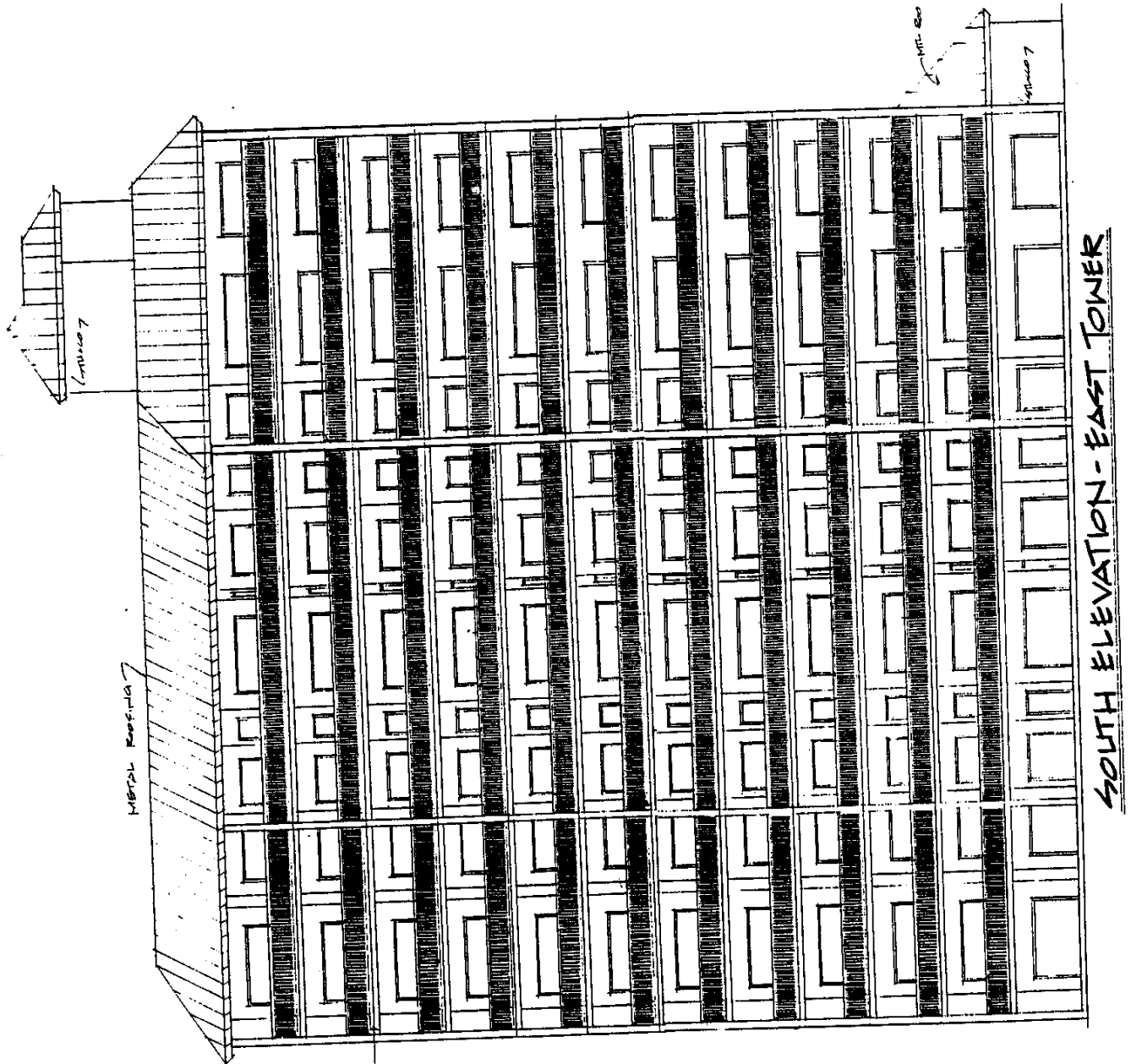


EXHIBIT "D"

THE DECLARATION OF CONDOMINIUM

OF SUMMERWINDS, A CONDOMINIUM

Schedule of Shares or Percentage of Ownership in Common Elements  
and Common Surplus

The percentage of ownership by each Unit Owner in the Common  
Elements and Common Surplus shall be a 1/72 interest.



EXHIBIT B TO THE PROSPECTUS  
(Articles of Incorporation of  
SummerWinds Owners Association, Inc.)

EXHIBIT E TO THE DECLARATION

# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of SUMMERWINDS OWNERS ASSOCIATION, INC., a Florida corporation, filed on September 16, 1993, as shown by the records of this office.

The document number of this corporation is N93000004264.

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Twenty-second day of September, 1993



CR2EO22 (2-91)

Jim Smith  
Secretary of State

ARTICLES OF INCORPORATION

OF

SUMMERWINDS OWNERS ASSOCIATION, INC.

FILED  
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned, by these Articles associates himself for the purpose of forming a corporation not for profit under Chapter 617, Florida Statutes, and certify as follows:

ARTICLE I

NAME. The name of the corporation shall be "SummerWinds Owners Association, Inc.," hereinafter referred to as the "Association."

ARTICLE II

PURPOSE. The purpose for which the Association is organized is to provide an entity pursuant to the Condominium Act, which is Chapter 718, Florida Statutes, for the operation, management, maintenance and control of SummerWinds, a Condominium, hereinafter referred to as the "condominium." The Association shall make no distributions of income to its members, directors or officers.

ARTICLE III

POWERS. The powers of the Association shall include and be governed by the following provisions:

(A) The Association shall have all the common law and statutory powers of a corporation not for profit not in conflict with the terms of these Articles or the Declaration of Condominium of the condominium operated by the Association, hereinafter referred to as the "Declaration."

(B) The Association shall have all of the powers and duties set forth in the Declaration and these Articles and in the Condominium Act except where the Act allows limitations by these Articles or the Declaration and all of the powers and duties reasonably necessary to operate a condominium pursuant to the Declaration and as it may be amended from time to time, including but not limited to the following:

(2) To make and collect assessments against the members as unit owners to defray the costs, expenses and losses of the condominium and to defray the costs, expenses and losses of any other business, enterprise, venture or property interest of the Association.

(3) To use the proceeds of the assessments in the exercise of these powers and duties.

(4) To maintain, repair, replace and operate the property of the condominium or the property of the Association.

(5) To purchase insurance upon the property of the condominium or the property of the Association and insurance for the protection of the Association and its members as unit owners.

(6) To reconstruct improvements after casualty and to further improve the property of the condominium operated by the Association or the property of the Association.

(7) To make and amend reasonable regulations respecting the use of the property in the condominium or the property of the Association.

(8) To approve or disapprove the transfer, mortgage and ownership of the units as may be provided by the Declaration and Bylaws of the Association, hereinafter referred to as the "Bylaws."

(9) To enforce by legal means the provisions of the Condominium Act, the Declaration, these Articles, the Bylaws, and the regulations for the use of the property of the condominium or the property of the Association.

(10) To contract for the management of the condominium and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the Declaration to have approval of the Board of Directors or the membership of the Association.

(11) To contract with Kenneth Earl Padgett, his heirs, successors and assigns

(13) To employ personnel to perform the services required for proper operation of the Association or the condominium.

(14) To hire attorneys or other professionals for the purposes of bringing legal action or enforcing rights in the name of and on behalf of the individual condominium unit owners where such actions or rights are common to all of the condominium unit owners; and to bring such action in the name of and on behalf of said condominium owners.

(C) All funds and the title of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration and of the Bylaws.

(D) The powers of the Association shall be subject to and be exercised in accordance with the provisions of the Declaration and Bylaws.

#### ARTICLE IV

##### MEMBERS.

(A) The members of the Association shall consist of all of the record owners of units in the condominium and after termination of the condominium, shall consist of those who are members at the time of such termination and their successors and assigns.

(B) After receiving approval of the Association required by the Declaration, change of membership in the Association shall be established by recording in the public records of Bay County, Florida a deed or other instrument establishing a record title to an unit in the condominium and the delivery to the Association of a certified copy of such instrument. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

(C) The share of a member in funds or assets of the

votes to be cast by owners of an unit and the manner of exercising voting rights shall be determined by the Bylaws of the Association.

## ARTICLE V

### DIRECTORS.

(A) The affairs of the Association will be managed by a Board consisting of not less than three (3) directors. Directors of the Association shall be elected at an annual meeting of the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

(B) The first election of Directors shall not be held until required by the Condominium Act, including §718.301 thereof, or until the Developer elects to terminate its control of the Association and the condominium operated by it, whichever occurs first. The Directors named in these Articles shall serve until the first election of directors, and any vacancies in their number occurring before the first election shall be filled by the remaining directors and, if there are no remaining directors, such vacancies shall be filled by the Developer.

(C) The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified or until removed are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Kenneth Earl Padgett	P. O. Box 3444 Vero Beach, FL 32964
Britt Hamill	3901 Thomas Drive Panama City Beach, FL 32407
Derrick Bennett	112 E. Third Court Panama City, FL 32401

## ARTICLE VI

the officers who shall serve until their successors are designated by the Board of Directors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Kenneth Earl Padgett President/Secretary/Treasurer	P. O. Box 3444 Vero Beach, FL 32964

#### ARTICLE VII

INDEMNIFICATION. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer at the time such expenses are incurred, except when the director or officer is adjudged guilty of willful misfeasance in the performance of his duties. The foregoing right of indemnification shall be in addition to and not exclusive of all of the rights to which such director or officer may be entitled. The directors shall be authorized to purchase directors and officers liability insurance providing coverage to the officers and directors of the Association at the expense of the Association.

#### ARTICLE VIII

BYLAWS. The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided by the Bylaws.

#### ARTICLE IX

AMENDMENTS. Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

(A) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(B) A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by the members of

the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing provided such approval is delivered to the secretary or assistant secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be by not less than two-thirds (2/3) of the vote of the entire membership of the Association.

(C) Provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of members without approval in writing by all members and the joinder of all record owners of mortgages upon the condominium operated by the Association. No amendment shall be made that is in conflict with the Condominium Act or the Declaration or any other applicable law or regulation.

(D) Provided, further, that no amendment shall abridge, limit or alter the rights reserved by or granted to Kenneth Earl Padgett, his successors or assigns, or any successor developer, by these Articles, the Declaration or by the Bylaws without the prior written consent of Kenneth Earl Padgett, his successors or assigns, or a successor developer.

(E) A copy of each amendment shall be certified by the Secretary of State and recorded in the public records of Bay County, Florida.

#### ARTICLE X

TERM. The term of the Association shall be perpetual.

#### ARTICLE XI

CERTIFICATE OF COMPLIANCE. A certificate of compliance from a licensed electrical contractor or electrician may be accepted by the Association's Board of Directors as evidence of compliance of the condominium's units to the applicable fire and life safety codes.



ARTICLE XII

INCORPORATOR. The name and address of the incorporator to these Articles of Incorporation are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Kenneth Earl Padgett	Post Office Box 3444 Vero Beach, FL 32964

IN WITNESS WHEREOF, the incorporator has affixed his signature  
this 13<sup>th</sup> day of September, 1993.

Kenneth Earl Padgett  
KENNETH EARL PADGETT

STATE OF FLORIDA  
COUNTY OF Indian River

BEFORE ME, the undersigned officer, duly authorized to take acknowledgments and administer oaths, personally appeared KENNETH EARL PADGETT, being by me personally known and first duly cautioned and sworn upon his oath, deposes and says that he signed the above Articles of Incorporation for the conditions and purposes therein stated.

SWORN TO AND SUBSCRIBED before me this 13<sup>th</sup> day of September, 1993.

Patricia Kuhns  
Signature  
PATRICIA KUHNS  
Printed Name of Notary Public

My Commission Expires:



PATRICIA A. KUHNS  
MY COMMISSION # CC311752 EXPIRES  
August 29, 1997  
BONDED THRU TROY FAIR INSURANCE, INC.

CERTIFICATE DESIGNATING PLACE OF BUSINESS OR DOMICILE  
FOR THE SERVICE OF PROCESS WITHIN THIS STATE,  
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED

In pursuance of Chapter 48.901, Florida Statutes, the following  
is submitted, in compliance with said Act:

First -- That SummerWinds Condominium Owners Association, Inc.  
desiring to organize under the laws of the State of Florida with its  
principal office, as indicated in the Bylaws/ <sup>at 6323 Thomas Drive,</sup> in the City of Panama  
City Beach, County of Bay, State of Florida, <sup>32407,</sup> has named Derrick Bennett  
located at 112 East Third Court, City of Panama City, County of Bay,  
State of Florida, as its agent to accept service of process within  
this state.

ACKNOWLEDGMENT:

Having been named to accept service of process for the above  
stated corporation, at place designated in this Certificate, I hereby  
accept the Act in this capacity, and agree to comply with the  
provision of said Act relative to keeping open said office.

By:   
DERRICK BENNETT  
(Resident Agent)

FILED  
93 SEP 16 PM 4:46  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

EXHIBIT C TO THE PROSPECTUS  
(Bylaws of SummerWinds Owners Association, Inc.)

EXHIBIT F TO THE DECLARATION

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BYLAWS  
OF  
SUMMERWINDS OWNERS ASSOCIATION, INC.  
A Non-Profit Florida Corporation

ARTICLE I. IDENTITY

These are the Bylaws of SUMMERWINDS OWNERS ASSOCIATION, INC., (hereinafter "the Association"), a corporation not for profit under the laws of the State of Florida. The Association has been organized for the purpose of providing for the operation, benefit, maintenance and control of SummerWinds, a Condominium, and is, with regard to such condominium, the legal entity created pursuant to Chapter 718, Florida Statutes, called the "Condominium Act" in these bylaws.

1.1 Principal Office.

The principal office of the Association shall be at 6323 Thomas Drive, Panama City Beach, Florida 32407, or at such other place as may be designated by the Board of Directors.

1.2 Fiscal Year.

The fiscal year of the Association shall be the calendar year.

1.3 Seal.

The seal of the Association shall bear the name of the corporation, the word "Florida," the words "corporation not for profit" and the year of incorporation.

1.4 Definitions.

For convenience, these Bylaws shall be referred to as the "Bylaws"; the Articles of Incorporation of the Association as the "Articles"; and the Declaration of Condominium for the condominium as the "Declaration." The other terms used in these Bylaws shall have the same definitions and meaning as those set forth in Florida Statutes Chapter 718, The Condominium Act (the "Act"), as well as those set forth in the Declaration and the Articles, unless provided to the contrary in these Bylaws, or unless the context otherwise requires.

ARTICLE II. MEETINGS

2.1 Annual Meeting.

The annual meeting of the members shall be held on the date and at the place and time as determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and no later than 13 months after the last annual meeting. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the members.

2.2 Special Meetings.

Special meetings of the members shall be held at such places as provided for annual meetings and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary on receipt of a written request from at least 10% of the members of the Association entitled to vote at the meeting. Requests for a meeting by the members shall state the purpose for the meeting, and business conducted at any special meeting shall be limited to the matters stated in the notice for it. The provisions of this section, as applicable, shall be modified by the provisions of F.S. 718.112(2)(f), concerning budget meetings; F.S. 718.112(2)(g), concerning assessments; F.S. 718.112(2)(k), concerning

recall; and F.S. 718.301(1) and (2), concerning election of directors by unit owners other than the developer.

2.3 Notice of Annual Meeting.

Written notice of the annual meeting shall be mailed to each unit owner not less than 14 and no more than 60 days before the annual meeting. A copy of the notice shall be posted in a conspicuous place on the condominium property at least 14 continuous days before the annual meeting. The post office certificate of mailing shall be retained as proof of the mailing. Unit owners may waive notice of the annual meeting. All written notices of meetings must include an identification of agenda items to be addressed at the meeting.

2.4 Notice of Special Meetings, Generally.

Except as modified by the specific requirements for special kinds of members' meetings as set out in these Bylaws, notice of special meetings, generally, shall be in writing, shall state the place, day and hour of the meeting and the purpose or purposes for which the meeting is called. The notice shall be delivered to each member entitled to vote at the meeting not less than 10 and no more than 60 days before the date of the meeting, either personally or by first class mail, by or at the direction of the President, the Secretary, or the officer or persons calling the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears in the records of the Association, with postage prepaid. Payment of postage for notice of any special meeting, by whomever called, shall be an obligation of the Association.

2.5 Notice of Budget Meeting.

The Board of Directors shall mail a notice and a copy of the proposed annual budget to the unit owners not less than 30 days before the meeting at which the Board will consider the budget.

2.6 Notice of Meeting to Consider Excessive Budget.

If a budget adopted by the Board of Directors requires assessment against the unit owners for any calendar year exceeding 115% of assessment for the preceding year, the Board, on written application of 10% of the unit owners to the Board, shall call a special meeting of the unit owners within 30 days, on not less than ten days' written notice to each unit owner.

2.7 Notice of Meeting to Consider Recall of Board Members.

A special meeting of the unit owners to recall a member or members of the Board of Directors may be called by 10% of the unit owners giving notice of the meeting as required for a meeting of unit owners, stating the purpose of the meeting.

2.8 Quorum.

A quorum at meetings of members shall consist of persons entitled to cast, either in person or by proxy, a majority of the votes of the entire membership. In determining whether a quorum is present, limited and/or general proxies may be counted as voting interests present.

2.9 Voting.

(a) Number of Votes.

In any meeting of members, the owners of units shall be entitled to cast one vote for each unit owned. The vote of a condominium unit is not divisible.



(b) Majority Vote.

The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding on all unit owners for all purposes unless the Act, the Declaration, the Articles, or these Bylaws require a larger percentage of vote, in which case that larger percentage shall control.

2.10 Membership - Designation of Voting Member.

Persons or entities shall become members of the Association on the acquisition of fee title to a unit in the condominium. Membership shall be terminated when a person or entity no longer owns a unit in the condominium. If a unit is owned by more than one natural person, any record owner of the unit may vote in person or by proxy, provided that there shall be no more than one vote per unit. In the case of conflict among the owners of a unit, the vote for that unit shall not be counted as to the matter under consideration in which the conflict arose, whether the conflict appears by vote in person or by proxy. Ballots may be cast for units owned by corporations or partnerships by a president, vice president, a partner, or any other person designated in a written certificate filed with the Secretary of the Association and signed by a president or vice president of a corporation or a partner of a partnership.

2.11 Proxies.

Votes may be cast in person or by general or limited proxy. Each proxy shall set forth specifically the name of the person voting by proxy and the name of the person authorized to vote the proxy for him. Each proxy shall contain the date, time and place of the meeting for which the proxy is given. Unit owners may vote by a limited proxy, approved by the Division of Florida Land Sales and Condominiums (hereinafter "Division"). Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with §718.112(2)(f); for votes taken to waive financial statement requirements as provided by §718.111(14); for votes taken to amend the Declaration pursuant to §718.110; for votes taken to amend the Articles or Bylaws pursuant to §718.110; and for any other matter for which Chapter 718, Florida Statutes, requires or permits a vote of the unit owner. No proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters which limited proxies are not required including voting for nonsubstantive changes. The proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings. No proxy shall be valid for a period longer than 90 days after the date of the first meeting for which it was given, and it may be revoked at any time at the pleasure of the unit owner executing it. The proxy shall be signed by the unit owner or owners (if more than one) or by the appropriate officer or partner of a corporation or partnership or other designated person mentioned in 2.11, or the duly authorized attorney-in-fact of that person or persons (provided the power of attorney is filed with the Secretary of the Association). The proxy shall be filed with the Secretary before or at the meeting for which the proxy is given.

2.12 Adjourned Meetings.

If any meeting of members cannot be organized because a quorum is not present, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. The time and place to which the meeting is adjourned shall be announced at the meeting at which the adjournment is taken and a notice shall be posted in a conspicuous place on the condominium property as soon thereafter as may be practical stating the time and place to which the meeting is adjourned.

2.13 Waiver of Notice.

Unit owners may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the Secretary of the Association either before, at, or after the meeting for which the waiver is given.

2.14 Minutes of Meetings.

The minutes of all meetings of unit owners shall be kept in a book available for inspection by unit owners or their authorized representatives, and board members at any reasonable time. The minutes shall be retained by the Association for a period of not less than seven years. Unit owners and their authorized representatives shall have the right to make handwritten notations from the minutes.

2.15 Order of Business.

The order of business at annual meetings of members and as far as practical at other members' meetings shall be:

- (a) Call to order
- (b) Election of a chairman of the meeting, unless the President or Vice President is present, in which case he shall preside
- (c) Calling of roll, certifying of proxies, determination of a quorum
- (d) Proof of notice of the meeting or waiver of notice
- (e) Reading and disposal of any unapproved minutes
- (f) Reports of officers
- (g) Reports of committees
- (h) Appointment of inspectors of election
- (i) Determination of number of directors
- (j) Election of directors
- (k) Unfinished business
- (l) New business
- (m) Adjournment

2.16 Tape Recording/Video Tape.

Any unit owner may tape record or video tape a meeting of the unit owners subject to the reasonable rules adopted the Division of Florida Land Sales, Condominiums and Mobile Homes of the Department of Business Regulation.

ARTICLE III. DIRECTORS

3.1 Number and Qualifications.

The affairs of the Association shall be managed initially by a board of three directors selected by the developer. When unit owners other than the developer are entitled to elect a majority of the directors, the Board shall be composed of any odd number of directors that the unit owners may decide. The number of directors, however, shall never be less than three. Other than those selected by the developer, directors must be either unit owners; tenants residing in the condominium; officers of a corporate unit owner; or partners of a partnership unit owner. No director (except those selected by the developer) shall continue to serve on the Board after he ceases to be a unit owner or tenant residing in the condominium.

3.2 Election of Directors.

Directors shall be elected at the annual meeting of members by a plurality of the votes cast. The members of the Board of Directors shall be elected by written ballot or voting machine. Each voter shall be entitled to cast votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting. Not less than 60 days before a scheduled election, the Association shall

mail or deliver to each unit owner entitled to vote a first notice of the date of the election. The election of the Board of Directors shall be in accordance with §718.112, Florida Statutes, and in accordance with the rules and conditions of the Florida Administrative Code.

### 3.3 Term.

Each director's term of service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner provided in 3.5. The members, however, at any annual meeting after the developer has relinquished control of the Association and in order to provide a continuity of experience, may vote to create classes of directorships having a term of one, two or three years so that a system of staggered terms will be initiated.

### 3.4 Vacancies.

Except as to vacancies resulting from removal of directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by majority vote of the remaining directors. Any director elected to fill a vacancy shall hold office only until the next election of directors by the members; irrespective of the length of the remaining term of the vacating director. Vacancies on the Board when both Developer and the unit owner other than the Developer shall be filled in accordance with Chapter 718 of the Florida Statutes, and Rule 61B-23.0021, F.A.C.

### 3.5 Removal.

Any director, except those selected by the developer, may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all unit owners. A special meeting of the unit owners to recall a member or members of the Board of Directors may be called by 10% of the unit owners giving notice of the meeting as required in these Bylaws. The notice shall state the purpose of the meeting. The procedures for recall and the appointment of new members shall be in accordance with the Act.

### 3.6 Disqualification and Resignation.

Any director may resign at any time by sending or personally delivering a written notice of resignation to the Association, addressed to the Secretary. The resignation shall take effect on receipt by the Secretary, unless it states differently. Any board member elected by the unit owners who is absent from more than three consecutive regular meetings of the Board, unless excused by resolution of the Board, shall be deemed to have resigned from the Board of Directors automatically, effective when accepted by the Board.

### 3.7 Organizational Meeting.

The organizational meeting of a newly elected Board of Directors shall be held within ten days of their election at a place and time that shall be fixed by the directors at the meeting at which there were elected and without further notice, except notice to unit owners required by the Act.

### 3.8 Regular Meetings.

The Board of Directors may establish a schedule of regular meetings to be held at a time and place as a majority of them shall determine from time to time. Notice of regular meetings, however, shall be given to each director personally or by mail, telephone or telegraph, at least three days before the day named for the meeting with the notice of each meeting posted conspicuously on the

condominium property at least 48 continuous hours before the meeting, except in an emergency. The notice shall specifically incorporate an identification of the agenda items to be discussed at the meeting. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the Board. Such emergency action shall be noticed and ratified by the next regular Board meeting. However, written notice of any meeting at which non-emergency special assessments or at which amendment to rules regarding unit use will be considered shall be mailed or delivered to the unit owners and posted conspicuously on the condominium property not less than 14 days prior to the meeting.

3.9 Special Meetings.

Special meetings of the Board of Directors may be called by the President and, in his absence, by the Vice President, and must be called by the Secretary at the written request of one-third of the directors. Notice of the meeting shall be given personally or by mail, telephone or telegraph. The notice shall state the time, place and purpose of the meeting and shall be transmitted not less than three days before the meeting. A copy of the notice of any special meeting shall be posted conspicuously on the condominium property at least 48 continuous hours before the meeting, except in an emergency.

3.10 Waiver of Notice.

Any director may waive notice of a meeting before, at or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any director at a meeting shall constitute a waiver of notice of the meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.11 Quorum.

A quorum at the meetings of the directors shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of directors is required by the Declaration, the Articles or these Bylaws.

3.12 Adjourned Meetings.

If there is less than a quorum present at any meeting of the Board of Directors, the majority of those present may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted with proper notice as required by law.

3.13 No Proxy.

Except as otherwise stated herein or by the Act, there shall be no voting by proxy at any meeting of the Board of Directors, except that officers may be elected by secret ballot.

3.14 Joinder in Meeting by Approval of Minutes.

A director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that director for the purpose of determining a quorum.

3.15 Meetings Open to Members.

Meetings of the Board of Directors and any committee thereof at which a quorum of the members of that committee is present shall be open to all unit owners. Any unit owner may tape record or video tape meetings of the Board of Directors. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The Division shall adopt reasonable rules governing the tape recording and video taping of the meetings. The Association may adopt reasonable rules governing the frequency, duration and manner of unit owners' statements. Notice of any meeting in which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. A director of the Association who is present at a meeting of the Board at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he votes against such action or abstains from voting in respect thereto because of an asserted conflict of interest. A vote or abstention for each member present shall be recorded in the minutes. A unit owner does not have any authority to act for the Association by reason of being an unit owner.

3.16 Presiding Officer.

The presiding officer at board meetings shall be the President or, in his absence, the Vice President, and in his absence, the directors present shall designate any one of their number to preside.

3.17 Minutes of Meetings.

The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by unit owners or their authorized representative and board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years. Unit owners and their authorized representatives shall have the right to make written notations from the minutes.

3.18 Compensation.

Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred in the discharge of their duties.

3.19 Order of Business.

The order of business at meetings of directors shall be:

- (a) Calling of roll
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading and disposal of any unapproved minutes
- (d) Reports of officers and committees
- (e) Election of officers
- (f) Unfinished business
- (g) New business
- (h) Adjournment

3.20 Election of Directors by Unit Owners Other Than Developer.

- (a) One-third.

When unit owners other than the developer own 15% or more of the units in any one condominium that will be operated ultimately by the Association, they shall be entitled to elect no less than one-third of the members of the Board of Directors.

(b) Majority.

Unit owners other than the developer are entitled to elect not less than a majority of the members of the Board of Directors at the earliest of:

(i) three years after 50% of the units that ultimately will be operated by the Association have been conveyed to purchasers; or

(ii) three months after 90% of the units that ultimately will be operated by the Association have been conveyed to purchasers; or

(iii) when all the units that ultimately will be operated by the Association have been completed, some of them have been conveyed to purchasers and none of the others are being offered for sale by the developer in the ordinary course of business; or

(iv) when some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business; or

(v) seven (7) years after the recording of the Declaration.

(c) Developer Member.

The developer is entitled to elect at least one member of the Board of Directors as long as the developer holds for sale in the ordinary course of business at least 5% of the units that ultimately will be operated by the Association. Following the time the developer relinquishes control of the Association, the developer may exercise the right to vote any developer-owned units in the same manner as any other unit owner except for purposes of re-acquiring control of the Association or selecting the majority of members of the Board of Directors.

(d) Election.

Within 75 days after the unit owners other than the developer are entitled to elect a member or members of the Board of Directors, the Association shall call, and give not less than 60 days' notice of an election for the members of the Board of Directors. The election shall proceed as provided in §718.112(2)(d) of the Act. The notice may be given by any unit owner if the Association fails to do so.

(e) Relinquishment of Control.

At the time that unit owners other than the developer elect a majority of the members of the Board of Directors of the Association, the developer shall relinquish control of the Association and the unit owners shall accept control. Simultaneously or for the purposes of §718.301(4)(c), not more than 90 days thereafter, the developer shall deliver to the Association, at the developer's expense, all property of the unit owners and of the Association which is held or controlled by the developer, including but not limited to those items specified in Chapter 718, Florida Statutes.

ARTICLE IV. POWERS AND DUTIES  
OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association existing under the Act, the Declaration, the Articles and these Bylaws shall be exercised exclusively by the Board of Directors, or its duly authorized agents, contractors or employees, subject only to the approval by unit owners when that approval is specifically required. The powers and duties of the Board shall include, but shall not be limited to, the following:

4.1 Maintenance, Management and Operation of the Condominium Property. The Association shall adopt hurricane shutter specifications for each building within each condominium operated by the Association which shall include color, style and other factors deemed relevant by the Board. All specifications adopted by the Board shall comply with applicable building code.

4.2 Contract, Sue or Be Sued.

After control of the Association is obtained by unit owners other than the developer, the Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest, including but not limited to the common elements and commonly-used facilities. The statute of limitations for any actions in law or equity that the Association may have shall not begin to run until the unit owners have elected a majority of the members of the Board of Directors.

4.3 Right of Access of Units.

The Association has the irrevocable right of access to each unit during reasonable hours as necessary for the maintenance, repair or replacement of any common elements or for making emergency repairs necessary to prevent damage to the common elements or to another unit or units.

4.4 Make and Collect Assessments.

4.5 Lease, Maintain, Repair and Replace the Common Elements.

4.6 Lien and Foreclosure for Unpaid Assessments.

The Association has a lien on each condominium parcel for any unpaid assessments with interest and for reasonable attorneys' fees incurred in the collection of the assessment or enforcement of the lien. It also has the power to purchase the condominium parcel at the foreclosure sale and to hold, lease, mortgage or convey it.

4.7 Purchase Unit.

In addition to its right to purchase units at a lien foreclosure sale, the Association generally has the power to purchase units in the condominium and to acquire, hold, lease, mortgage, and convey them.

4.8 Modify Easements.

The Association, without the joinder of any unit owner, may modify or move any easement for ingress or egress or for utilities purposes if the easement constitutes part of or crosses the condominium property.

4.9 Purchase of Land or Recreation Lease.

The Association has the power to acquire title to property or otherwise hold, convey, lease, and mortgage Association property for the use and benefit of its members on the approval of 75% of the unit owners of the Association. The power to acquire personal property shall be exercised by the Board of Directors.

4.10 Acquire Use Interest in Recreational Facilities.

The Association may enter into agreements, acquire leaseholds, memberships and other possessory or use interests in lands or facilities, such as country clubs, golf courses, marinas or other recreational facilities, whether contiguous to the condominium property or not if: (a) they are intended to provide enjoyment, recreation or other use or benefit to the unit owners and (b) if they

exist or are created at the time the Declaration was recorded, they are fully stated and described in the Declaration.

4.11 Authorize Certain Amendments.

If it appears that through a drafter's error in the Declaration that the common elements, common expenses or common surplus has been stated or distributed improperly, an amendment to the Declaration correcting that error may be approved by the Board of Directors or a majority of the unit owners. No unit owners except those directly affected must join in the execution of the amendment.

4.12 Adopt Rules and Regulations.

The Association may adopt reasonable rules and regulations of the common elements and recreational facilities serving the condominium.

4.13 Maintain Official Records.

The Association shall maintain the official records of the Association which are more specifically delineated in §718.111(12).

4.14 Obtain Insurance.

The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association and the common elements. Every hazard policy which is issued to protect the condominium buildings shall provide that the word "building" wherever used in the policy include, but not necessarily be limited to, fixtures, installations or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual units initially installed or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as they existed at the time the unit was initially conveyed if the original plans and specifications are not available. However, unless prior to October 1, 1986 the Association is required by the Declaration to provide coverage therefor, the word "building" does not include unit floor coverings, wall coverings, or ceiling coverings and as to contracts entered into after July 1, 1992, does not include the following equipment if it is located within an unit and the unit owner is required to repair or replace such equipment: electrical fixtures, appliances, air conditioner or heating equipment, water heaters, or built-in cabinets. With respect to the coverage provided by this paragraph, the unit owner shall be considered additional insureds under the policy.

4.15 Furnish Annual Financial Reports to Members.

The Association shall furnish the financial reports and other documents to the unit owners, as required by §718.111(13).

4.16 Give Notice of Liability Exposure.

If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all unit owners, who shall have the right to intervene and defend.

4.17 Provide Certificate of Unpaid Assessment.

Any unit owner, mortgagee or other record lienholder has the right to require from the Association a certificate showing the amount of unpaid assessments respecting the owner's condominium unit.

4.18 Pay the Annual Fee to the Division of Florida Land Sales and Condominiums for Each Residential Unit Operated by the Association.



4.19 Contract for Maintenance and Management of the Condominium.

4.20 Pay Taxes or Assessments Against the Common Elements or Association Property.

4.21 Pay Costs of Utilities Services Rendered to the Condominium and Association Property and Not Billed Directly to Individual Owners.

4.22 Employ Personnel.

The Association may employ and dismiss personnel as necessary for the maintenance and operation of the condominium property and may retain those professional services that are required for those purposes.

4.23 Impose Fines.

Pursuant to Florida Statute 617.10(3) and 718.303(3), the Board of Directors may impose reasonable fines against the unit for the failure of the owner of the unit, or its occupant, licensee or invitee, to comply with any provision of the Declaration, the Association Bylaws, or reasonable rules of the Association. No fine will become a lien against a unit. No fine may exceed \$100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000.00. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the unit owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other unit owners. If the committee does not agree with the fine, the fine may not be levied. This paragraph does not apply to unoccupied units.

4.24 Delinquent Unit Owners.

The Board of Directors may disapprove the prospective tenant of any unit owner delinquent in the payment of assessments for common expenses.

4.25 Authorize Private Use of the Common Elements.

The Board of Directors may authorize unit owners or others to use portions of the common elements, such as social rooms and meeting rooms for private parties and gatherings, for which reasonable charges may be imposed.

4.26 Repair or Reconstruct Improvements After Casualties.

4.27 Lien for Labor and Materials Furnished to the Common Elements.

ARTICLE V. OFFICERS

5.1 Executive Officers.

The executive officers of the Association shall be a President, who shall be a Director, a Vice President, who shall be a Director, a Treasurer, a Secretary and an Assistant Secretary. The officers shall be elected annually by the Board of Directors and may be removed without cause at any meeting by a vote of a majority of all of the Directors. A person may hold more than one office except that the President may not also be the Secretary or Assistant Secretary. No person shall sign an instrument nor perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.2 President.

The President shall be the Chief Executive Officer of the Association. He shall have all the powers and duties that usually are vested in the office of president of an association, including but not limited to the power to appoint committees from among the members to assist in the conduct of the affairs of the Association as he in his discretion may determine appropriate. He shall preside at all meetings of the Board.

5.3 Vice President.

The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise those other powers and perform those other duties as shall be prescribed by the Directors.

5.4 Secretary.

The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.

5.5 Treasurer.

The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He shall submit a Treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of Treasurer. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.

5.6 Compensation.

The compensation, if any, of all officers and other employees of the Association shall be fixed by the Board of Directors. This provision shall not preclude the Board from employing a Director as an employee of the Association or preclude the contracting with a Director for the management of the condominium.

ARTICLE VI. FISCAL MANAGEMENT

6.1 Board Adoption of Budget.

The Board of Directors shall adopt a budget for each fiscal year that shall include the estimated funds required to defray the common expenses and to provide and maintain funds according to good accounting practices by accounts and expenses classifications including, if applicable, but not limited to the following:

- (a) Administration of the Association
- (b) Management fees
- (c) Maintenance and repairs
- (d) Rent for recreational and other commonly used facilities
- (e) Taxes on Association property
- (f) Taxes on leased areas

- (g) Insurance
- (h) Security provisions
- (i) Other expenses
- (j) Operating capital
- (k) Fees payable to the Division of Florida Land Sales and Condominiums
- (l) Reserve accounts for capital expenditures and deferred maintenance, to include, but not limited to, swimming pools, storm water drainage, roof replacement, building painting and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement costs and for any other item for which the deferred maintenance expense or replacement cost exceeds \$10,000.00. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement costs of each reserve item, which total amount may be adjusted by the Association. This subsection shall not apply to budgets in which the members of the Association have, by vote of the majority of the voting interests of the Association present at a duly called meeting of the Association, determine for a fiscal year to provide no reserves or reserves less adequate than required by the Act. The Developer shall, upon recording of the Declaration of Condominium with the public records of Bay County, Florida, immediately provide for an Association condominium meeting wherein the Developer, as owner of all units, has agreed and shall vote that for the first two years of the operation of the Association, there shall be no provision for reserves.

#### 6.2 Notice of Budget Meeting.

The Board of Directors shall mail a meeting notice and copies of the proposed annual budget to the unit owners not less than 14 days before the meeting at which the budget will be considered. The meeting shall be open to all the unit owners.

#### 6.3 Member Rejection of Excessive Budget.

If a budget adopted by the Board of Directors requires assessment against the unit owners in any fiscal year exceeding 115% of the assessment of the previous year, the Board, on written application of 10% of the unit owners shall call a special meeting of the unit owners within 30 days. The special meeting shall be called on not less than ten days' written notice to each unit owner. At the special meeting, unit owners shall consider and enact a budget by not less than a majority vote of all unit owners. Provisions for reasonable reserves for repair or replacement of the condominium property, nonrecurring expenses and assessments for betterments to the condominium property shall be excluded from the computation in determining whether assessments exceed 115% of similar assessments in the previous year.

#### 6.4 Alternative Budget Adoption by Members.

At its option, for any fiscal year, the Board of Directors may propose a budget to the unit owners at a meeting of unit owners or in writing. If the proposed budget is approved by the unit owners at the meeting or by a majority of all unit owners in writing, the budget shall be adopted.

#### 6.5 Budget Restraints on Developer.

As long as the developer is in control of the Board of Directors, the Board shall not impose any assessments for any year greater than 115% of the previous year's assessment without approval of a majority of all unit owners.

6.6 Accounting Records and Reports.

The Association shall maintain accounting records in the county in which the condominium is located, according to good accounting practices. The records shall be open to inspection by unit owners or their authorized representatives at reasonable times. The records shall include, but shall not be limited to: (a) a record of all receipts and expenditures and (b) an account for each unit, designating the name and current mailing address of the unit owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid on the account and the balance due. Within 60 days following the end of the calendar year, or on such date agreed to by the Association, the Board of Directors of the Association shall mail or furnish by personal delivery to each unit owner and to the Division, a complete financial report of actual receipts and expenditures for the previous 12 months.

6.7 Depository.

The depository of the Association shall be those banks or savings and loan associations, state or federal, located in Florida, as shall be designated from time to time by the Board of Directors and in which the money for the Association shall be deposited. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as are authorized by the Directors.

6.8 Fidelity Bonding.

The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association in the minimum amounts required by §718.112(2)(j). The Association shall bear the cost of bonding, except as otherwise allowed in the Act.

6.9 Annual Election of Income Reporting Method.

The Board shall make a determination annually, based on competent advice, whether it shall cause the Association's income to be reported to the Internal Revenue Service by the "regular" method (Federal Tax Form 1120) or the "alternative" method (Federal Tax Form 1120H).

ARTICLE VII. ASSESSMENTS AND COLLECTION

7.1 Assessments, Generally.

Assessments shall be made against the unit owners not less frequently than quarterly at the discretion of the Board of Directors and shall be collected on a monthly basis. The assessments shall be made in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. The assessment funds shall be collected against unit owners in the proportions or percentages provided in the Declaration. Unit owners' shares of common expenses shall be in the same proportions as their ownership interest in the common elements. The Association shall accelerate delinquent assessments not less frequently than on a quarterly basis, unless a lien is recorded prior to the acceleration for the delinquent assessments in accordance with Chapter 718, Florida Statutes, and the Florida Administrative Code.

7.2 Special Assessments.

Assessments for common expenses for emergencies that cannot be paid from the annual assessment for common expenses shall be made by the Board of Directors after 30 days notice given to the unit owners. These assessments shall be paid at the times and in the manner that the Board of Directors may require in the notice of assessment. Upon completion of such emergency assessment, any excess funds will be

considered common surplus and may, at the discretion of the Board, either be returned to the unit owners or applied as credit toward future assessments.

### 7.3 Assessments for Charges.

Charges by the Association against members for other than common expenses shall be payable in advance. Charges for other than common expenses may be made only when allowed by the Act and only after approval of a member or when expressly provided for in the Declaration or other condominium documents. These charges may include, without limitation, charges for the use of the condominium property or recreation area, maintenance services furnished at the expense of a member and other services furnished for the benefit of a member.

### 7.4 Liability for Assessments.

Each unit owner, regardless of how title is acquired, shall be liable for all assessments coming due while he is the unit owner. The unit owner and his grantee shall be jointly and severally liable for all unpaid assessments due and payable up to the time of the voluntary conveyance. A first mortgagee who acquires title to the unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding six (6) months, but in no event does the first mortgagee's liability exceed one percent (1%) of the original mortgage debt. The first mortgagee's liability for such expenses or assessments does not commence until 30 days after the date the first mortgagee received the last payment of principal or interest. In no event shall the mortgagee be liable for more than six (6) months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made.

### 7.5 Assessments, Amended Budget.

If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

### 7.6 Collection: Interest, Application of Payment.

Assessments and installments on them, if not paid within ten days after the date they become due, shall bear interest at the rate of eighteen (18%) percent until paid. The Association may charge an administrative late fee in addition to such interest, in an amount not to exceed the greater of \$25.00 or 5% of each installment of the assessment for each delinquent installment that the payment is late. Any payment received by the Association shall be applied first to any interest accrued by the Association, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in the collection, and then to the delinquent assessment.

### 7.7 Lien for Assessment.

The Association may have a lien on each condominium parcel for any unpaid assessments, with interest, and for reasonable attorney's fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and shall relate back to April 1, 1992, or the recording of the original

Declaration of Condominium, whichever shall last occur. However, as to the first mortgages of record, the lien is effective from and after the recording of the claim of lien. The claim of lien shall secure all unpaid assessments, interest, late fees, costs and attorney's fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to the entry of a final judgment of foreclosure.

7.8 Collection: Suit, Notice.

The Association may bring an action to foreclose any lien for assessment in the manner that a mortgage of real property is foreclosed. It also may bring an action to recover a money judgment for the unpaid assessment 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 judgment for unpaid assessments. The Association shall give notice to the unit owner of its intention to foreclose its lien at least 30 days before the foreclosure action is filed. The notice may be given by delivery of a copy of it to the unit owner or by certified mail, return receipt requested, addressed to the unit owner.

ARTICLE VIII. ASSOCIATION CONTRACTS, GENERALLY

8.1 Fair and Reasonable, Cancellation.

Any contracts made by the Association before the unit owners assume control from the developer must be fair and reasonable. All contracts for the operation, maintenance or management of the Association or property serving the unit owners, made by the Association, whether before or after assumption of control of the Association by the unit owners, must not be in conflict with the powers and duties of the Association or the rights of the unit owners. Contracts made by the Association before the unit owners assume control may be canceled by the unit owners after assumption of control in the manner and under the circumstances as provided in the Act.

8.2 Escalation Clauses in Management Contracts Prohibited.

No management contract entered into by the Association shall contain an escalation clause, since they have been declared to be against the public policy of the State of Florida.

8.3 Requirements for Product and Service Contracts.

Pursuant to §718.3026, the Developer, as owner of all units and controlling interests in the Association, shall immediately provide for an Association condominium meeting wherein the Developer shall vote to opt out of the provisions of §718.3026, requiring specificity as to contracts for products and services for the Association. However, all written contracts for operation, maintenance and management of the condominium shall be in accordance with and subject to the provisions of §718.3025.

ARTICLE IX. ROSTER OF UNIT OWNERS AND MORTGAGEES

Each unit owner shall file with the Association a copy of the deed or other instrument showing his ownership, together with a copy of any mortgage on his unit and any satisfaction of that mortgage. The Association shall maintain these documents in a suitable binder for reference as required in the exercise of its powers and duties.

ARTICLE X. COMPLIANCE AND DEFAULT

10.1 Violations, Notice, Actions.

Each unit owner, tenant and other invitee shall be governed by and shall comply with the provisions of the Act, the Declaration, the

documents creating the Association, and these Bylaws which shall be deemed expressly incorporated to any lease of an unit. In the case of violation (other than nonpayment of assessments) by an unit owner, tenant or invitee, of any of the provisions of the Act, Declaration, Articles or Bylaws, the Association may file an action for damages or for injunctive relief or for both for failure to comply with the provisions thereof. An unit owner may bring an action against the Association for damages, injunctive relief or both, if the Association fails to comply with the provisions of the Act, the Declaration, the Articles or Bylaws.

10.2 Attorneys' Fees.

In any action brought pursuant to the provisions of 10.1, the prevailing party is entitled to recover reasonable attorneys' fees.

10.3 No Waiver of Rights.

Neither an unit owner nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of an unit owner or the purposes of the provision, except that unit owners or Board members may waive notice of specific meetings in writing.

ARTICLE XI. ARBITRATION OF INTERNAL DISPUTES

Internal disputes, as defined by §718.1255, Florida Statutes, arising from the operation of the condominium among unit owners, the Association, their agents and assigns, will be resolved in accordance with the mediation/arbitration provisions of §718.1255, Florida Statutes. The Division shall employ full-time arbitrators to conduct arbitration hearings as provided in the Act. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this paragraph 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. The filing of the petition for arbitration tolls the applicable statute of limitations. An arbitration decision shall be final if a complaint for trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The prevailing party in arbitration may be awarded costs and attorneys' fees. The party who files a complaint for trial de novo shall be assessed the other party's costs and attorneys' fees 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 attorneys' fees. Enforcement of an arbitration or trial de novo judgment shall be in accordance with the Act.

ARTICLE XII. LIABILITY SURVIVES MEMBERSHIP TERMINATION

Termination of membership in the Association shall not relieve or release a former member from any liability or obligation incurred with respect to the condominium during the period of membership, nor impair any rights or remedies that the Association may have against the former member arising out of his membership and his covenants and obligations incident to that membership.

ARTICLE XIII. LIMITATIONS ON UNIT OWNER'S  
LIABILITY FOR USE OF COMMON ELEMENTS

Each unit owner may be personally liable for the acts or omissions of the Association relating to the use of the common elements. That liability shall be shared with other unit owners in the same percentages as their respective interests in the common elements. No individual unit owner's liability shall exceed the value of his unit.

ARTICLE XIV. PARLIAMENTARY RULES

ROBERTS' RULES OF ORDER (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration, the Articles or these Bylaws.

ARTICLE XV. RULES AND REGULATIONS

15.1 Board May Adopt.

The Board of Directors may adopt and amend, from time to time, reasonable rules and regulations governing the details of the use and operation of the common elements and recreational facilities serving the condominium.

15.2 Posting and Furnishing Copies.

A copy of the rules and regulations adopted from time to time by the Board of Directors, and any amendments to existing rules and regulations, shall be posted in a conspicuous place on the condominium property and a copy furnished to each unit owner.

15.3 Limitations on Authority.

The Board of Directors may not unreasonably restrict any unit owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in common elements and recreational facilities (subject to §718.106(4)). The Board may not deny any condominium resident, whether tenant or owner, access to any available franchised or licensed cable television service or exact a charge or anything of value in excess of charges normally paid for like services by residents of single-family homes within the same franchise or license area.

ARTICLE XVI. RESTRICTIONS ON AND REQUIREMENTS FOR  
USE, MAINTENANCE AND APPEARANCE OF THE UNITS

16.1 Where Contained.

Restrictions on the use, maintenance and appearance of the individual condominium units shall be as stated in the Declaration or Bylaws and no amendments or additions shall be contained elsewhere than in the Declaration or Bylaws as adopted by a vote of the unit owners in the manner prescribed elsewhere in these Bylaws.

16.2 Tests for Validity of Restrictions.

Restrictions contained in the Declaration and any amendments duly adopted by a vote of the unit owners shall be valid and in the nature of covenants running with the land, unless it is shown that they: (1) are wholly arbitrary in their application; (2) are in violation of public policy; or (3) abrogate some fundamental constitutional rights.

ARTICLE XVII. LEASE RESTRICTIONS

In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the units, the lease of units shall be subject to certain restrictions as long as the condominium exists and any unit building in useful condition exists upon the land. Units may only be leased for ninety (90) consecutive days and no less. Any lease of a unit for less than ninety (90) consecutive days shall be wholly null and void and shall be considered a breach of the terms and conditions of these Bylaws and the Declaration of Condominium. No unit owner shall lease his unit until all assessments past due are paid or their payment provided for, to the satisfaction of the Association.



ARTICLE XVIII. BYLAWS DEEMED AMENDED

These Bylaws shall be deemed amended in those particulars as may be required to make them consistent with the provisions of the Act, as it may be amended from time to time.

ARTICLE XIX. PRIORITIES IN CASE OF CONFLICT

In the event of conflict between or among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest:

- (a) The Act
- (b) The Declaration of Condominium
- (c) The Articles
- (d) The Bylaws
- (e) The Rules and Regulations

ARTICLE XX. INDEMNIFICATION

Every officer and director of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred and imposed in connection with any proceedings to which he may be a party, or in which he may become involved by reason of his being or having been an officer or director of the Association, whether or not he is an officer or director at the time the expenses are incurred. The officer or director shall not be indemnified if he is adjudged guilty of gross negligence or willful misconduct or shall have breached his fiduciary duty to the members of the Association. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first approved by the Board of Directors. The foregoing rights shall be in addition to and not exclusive of all other rights to which the director or officer may be entitled.

ARTICLE XXI. DEFECTIVE CONDOMINIUM  
DOCUMENTS, CURATIVE PROVISIONS

The Association or an unit owner may petition the circuit court having jurisdiction in the county in which the condominium property is situated to correct an error or omission in the Declaration or any other documents required to establish the condominium, affecting its valid existence, and which errors or omissions are not correctable by the amendment procedures in the Declaration or the Act. In any case, after three years from the filing of the Declaration, it shall be deemed to be effective under the Act to create a condominium, whether in fact it substantially complies with the mandatory requirements of the Act or not.

ARTICLE XXII. AMENDMENTS

Amendments to these Bylaws shall be proposed and adopted in the following manner:

22.1 Notice.

Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

22.2 Adoption.

An amendment may be proposed either by a majority of the Board of Directors or by not less than one-third of the members of the Association. The amendment shall be adopted if it is approved either by: (a) not less than a majority of the votes of the entire membership of the Association and by not less than two-thirds of the

Board of Directors; or (b) by not less than 75% of the votes of the entire membership of the Association.

22.3 Recording.

A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and Bylaws. The certificate shall be executed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the county. An amendment by the developer must be evidenced in writing, but a certificate of the Association's officers is not required.

22.4 Format.

Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BYLAW. SEE BYLAW NUMBER \_\_\_\_\_ FOR PRESENT TEXT."

ARTICLE XXIII. CONSTRUCTION

Whenever the context permits or requires, the singular shall include the plural, the plural shall include the singular and the use of any gender shall be deemed to include all genders.

ARTICLE XXIV. CERTIFICATE OF COMPLIANCE

A Certificate of Compliance from a licensed electrical contractor or electrician may be accepted by the Association's Board of Directors as evidence of compliance of the condominium units to the applicable fire and life safety codes.

The foregoing were adopted as the Bylaws of SUMMERWINDS OWNERS ASSOCIATION, INC., on this 13<sup>th</sup> day of September, 1993.

SUMMERWINDS OWNERS  
ASSOCIATION, INC.

ATTEST:

By: Kenneth E. Padgett  
Kenneth E. Padgett, President

Kenneth E. Padgett  
, Secretary

RCD: JAN 4 1994 @ 4:08 PM  
HAROLD BAZZEL, CLERK