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**CERTIFICATE OF AMENDMENT TO THE AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM MERGING WINDWARD PHASE I, II, III, IV  
CONDOMINIUMS AND AMENDED AND RESTATED BYLAWS.**

WHEREAS, the Declaration for **Amended and Restated Declaration of Condominium Merging Windward Phase I, II, III, IV Condominiums and Amended and Restated Bylaws** (the "Declaration") has been duly recorded in the Public Records of Indian River County, Florida, as amended in Official Records Book 888 at Page 739 et seq. of the Public Records of Indian River County, Florida; and

WHEREAS, at a duly called and noticed meeting of the membership of **Windward Condominium Association, Inc.**, a Florida not for profit corporation, held on Thursday, April 24<sup>th</sup>, 2025, the Second Amended and Restated Declaration of Condominium Merging Windward Phase I, II, III, IV Condominiums and Second Amended and Restated Bylaws, were approved by the membership pursuant to the provisions thereof and duly adopted by the membership in accordance with the voting requirements of the Bylaws.

NOW THEREFORE, the undersigned hereby certify that the following Certificate of Amendment to the Second Amended and Restated Declaration of Condominium Merging Windward Phase I, II, III, IV Condominiums and Second Amended and Restated Bylaws are true and correct copies of the Declaration and Bylaws as approved by the membership. (See attached Second Amended and Restated Declaration and Amended and Restated Bylaws pursuant to Section 718.110, Florida Statutes

IN WITNESS WHEREOF, this Certification was hereby duly executed by the President of the ASSOCIATION and witnessed by its Secretary this 2 day of July 2025 to certify the foregoing action taken by the Board of Directors.

WINDWARD CONDOMINIUM ASSOCIATION, INC.

By: David Gerrity  
David Gerrity, President

Attest:

By: Bryan Burcroff  
Bryan Burcroff, Secretary

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 2 day of July, 2025, by David Gerrity, of **Windward Condominium Association, Inc.**, a Florida Not-for-Profit Corporation, on behalf of the corporation as its **President**.  He is personally known to me or has produced \_\_\_\_\_ as identification.



Julie Barrett Gerber  
Julie Barrett Gerber  
9/28/26

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 03 day of July, 2025, by Bryan Burcroff, of **Windward Condominium Association, Inc.**, a Florida Not-for-Profit Corporation, on behalf of the corporation as its **Secretary**.  He is personally known to me or has produced \_\_\_\_\_ as identification.



Joshua D. Whaley

**SECOND AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
MERGING  
WINDWARD, PHASE I, II, III, IV  
CONDOMINIUMS**

**NOTE: This document is a substantial rewording of the Amended Declaration of Condominium Merging, Phase I, II, III, IV Condominiums recorded on February 21, 1991, at Official Records Book 888, Page 739, of the Public Records of Indian River County, as amended to this date (hereinafter the "Original Declaration"), except that all Exhibits to the Original Declaration which are not otherwise referenced herein or attached hereto remain unchanged and are hereby incorporated by reference herein as if attached hereto and made a part hereof. See the Original Declaration for the present text.**

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1. **INTRODUCTION AND SUBMISSION.**

- 1.1 **The Land.** The real property comprising this condominium located in Indian River County, Florida, is more particularly described in Exhibit A attached to the Original Declaration and incorporated by reference herein (the "Land").
- 1.2 **Submission Statement.** The Developer submitted the Land and all improvements thereon to the condominium form of ownership and use in the manner provided for in the Florida Condominium Act, as it may be amended from time to time.
- 1.3 **Name.** The name by which this condominium is to be identified is WINDWARD CONDOMINIUM (hereinafter called the "Condominium").

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

- 2.1 "Act" means the Florida Condominium Act (Chapter 718 of the Florida Statutes) as it may be amended from time to time, and all references herein to the Act shall mean and refer to the Act as amended to date and as amended from time to time, whether or not so stated.
- 2.2 "Articles" or "Articles of Incorporation" means the Articles of Incorporation of Windward Condominium Association of Vero Beach attached as an exhibit to the Original Declaration as Exhibit "E", as subsequently amended from time to time.
- 2.3 "Assessment" means a share of the funds which are required for the payment of Common Expenses which from time to time is assessed against the Unit Owner.
- 2.4 "Association" means WINDWARD CONDOMINIUM ASSOCIATION OF VERO BEACH, INC., a not-for-profit Florida corporation, the entity responsible for the operation and maintenance of the Condominium.
- 2.5 "Association Property" means the property, real and personal, in which title or ownership is vested in, or which is dedicated on a recorded plat or leased to, the Association for the use and benefit of its members.
- 2.6 "Board" or "Board of Directors" means the representative body which is responsible for administration of the Association, and is the same body that is sometimes referred to in the Act as the "Board of Administration.
- 2.7 "Buildings" means the structures situated on the Condominium Property in which the Units are located.
- 2.8 "Bylaws" mean the Amended and Restated Bylaws of Windward Condominium Association of Vero Beach, Inc., recorded in the Official Records of Indian River County, Florida, at Book 1791, Page 690, *et al.*, as subsequently amended from time to time.
- 2.9 "Commercial Vehicle" means a vehicle containing any lettering or advertising, and/or includes vehicles signage on them, paneled trucks with no windows, trucks with toolboxes that extend above the bed of the truck, trucks with ladders or plumbing pipes on top, and those with a commercial vehicle tag.

- 2.10 "Committee" means a group of Board members, Unit Owners or Board members and Unit Owners appointed by the Board or the President to make recommendations to the Board regarding a proposed annual budget or otherwise to take action on behalf of or make recommendations to the Board.
- 2.11 "Common Elements" means and includes the portions of the Condominium Property which are not included in the Units or Association Property, as defined herein.
- 2.12 "Common Expenses" means: (1) expenses of administration and management of the Condominium Property and Association Property; (2) expenses of maintenance, operation, protection, repair or replacement of Common Elements and Association Property, as well as those portions of the Units for which the Association is responsible; (3) expenses declared Common Expenses by the provisions of this Declaration or by the Bylaws; (4) any valid charge against the Association or against the Condominium Property and Association Property; (5) the costs of carrying out the powers and duties of the Association; and (6) all expenses properly incurred by the Association in the performance of its duties, including expenses specified in Florida Statute, Section 718.115. Common Expenses also include all reserves required by the Act or otherwise established by the Board, insurance for directors and officers, in-house communications, and alarm monitoring, which are reasonably related to the general benefit of the Unit Owners even if such expenses do not attach to the Common Elements or property of the Condominium. The cost of communications services as defined in Chapter 202, Florida Statutes, information services, or internet service obtained pursuant to a bulk contract shall also be a Common Expense, but shall be allocated on a per Unit basis, and shall not include any other separate obligations of individual Unit Owners.
- 2.13 "Common Surplus" means the amount of all receipts or revenues, including Assessments, rents or profits collected by the Association which exceeds Common Expenses.
- 2.14 "Condominium" means the form of ownership of real property created pursuant to the provisions of the Act which is comprised of Units that may be owned by one or more Persons and there appurtenant to each Unit, as a part thereof, an undivided share in the Common Elements.
- 2.15 "Condominium Parcel" means a Unit together with the undivided share in the Common Elements appurtenant to said Unit; and when the context permits, the term includes all other appurtenances to the Unit.
- 2.16 "Condominium Property" means the lands, leaseholds, improvements and other personal property submitted to Condominium ownership by the Original Declaration, and which is described in Exhibit "A" attached hereto and incorporated herein by reference, subject to the limitations thereof and exclusions therefrom, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.
- 2.17 "County" means the County of Indian River, State of Florida.
- 2.18 "Declaration" or "Declaration of Condominium" means this instrument, as it may be amended from time to time.

- 2.19 "Developer" means the entity identified in the Original Declaration as the developer.
- 2.20 "Family", "single family" or words of similar import shall be deemed to include up to two (2) natural persons who are married or up to two (2) natural persons who are not related by blood, marriage or adoption living together as a single housekeeping Unit, their children, grandchildren, parents, grandparents, mothers-in-law or fathers-in-law, and their spouses or domestic partners, not to exceed the maximum number of Persons per bedroom allowable by applicable law.
- 2.21 "Governing Documents" means this Amended and Restated Amended Declaration of Condominium Merging Windward, Phase I, II, III and IV Condominiums, the Articles of Incorporation, Bylaws and Rules and Regulations adopted by the Association, as they all may be amended from time to time.
- 2.22 "Guest" means any person who is spends time, visits or stays at a Unit at the invitation of the Owner or other legally permitted occupant to whom hospitality has been extended to stay, visit or spend time in the Unit without a requirement to contribute money, perform any service or provide any other consideration to the Owner or lessee in conjunction with the visit or stay. A permanent occupant of a Unit shall not be considered a Guest. Furthermore, an Owner of a Unit shall never be considered a Guest in the Unit he owns, unless the Owner is visiting his lessee in the Unit.
- 2.23 "Improvements" means all structures and artificial changes to the natural environment (exclusive of landscaping) located on the Condominium Property, including, but not limited to, the Buildings.
- 2.24 "Legal Fees" mean (a) reasonable fees for attorney and paralegal services incurred in the pre-suit enforcement of this Declaration, the Articles of Incorporation, Bylaws or Rules and Regulations, negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and post-judgment proceedings; and (b) costs incurred including pre-suit costs and court costs through and including all trial and appellate levels and post-judgment proceedings.
- 2.25 "Limited Common Elements" means those Common Elements the use of which is reserved to a certain Unit or Units to the exclusion of other Units, as specified in this Declaration. References herein to Common Elements also shall include all Limited Common Elements unless the context would prohibit, or it is otherwise expressly provided.
- 2.26 "Member" means and refers to a Person who is entitled to membership in the Association, as provided herein.
- 2.27 "Original Declaration" means the Amended Declaration of Condominium Merging Windward, Phase I, II, III, IV Condominium recorded on February 21, 1991 at Official Record Book 888, Page 739 of the Public Records of Indian River County, Florida.
- 2.28 "Person" means any individual, corporation, governmental agency, trust, estate, partnership, Association, or any other legal entity with the legal right to hold title to a Unit.
- 2.29 "Unit" means a part of the Condominium Property which is subject to exclusive ownership.

- 2.30 "Unit Owner" or "Owner of a Unit" or "Owner" means the record Owner of legal title to a Unit. If a Unit is owned by more than one Person, the term Owner shall mean each Person, jointly and severally. Every Owner of a Unit shall be deemed to be a Member of the Association for purposes of this Declaration, the Articles and Bylaws.
- 2.31 "Utility Services" as used in the Condominium Act and construed with reference to this Condominium and as used in this Declaration, the Articles of Incorporation and Bylaws shall include, but not be limited to, electric power, gas, water, heating, air-conditioning, cable television, sprinkler, irrigation, drainage, sewage and garbage disposal.

### 3. DESCRIPTION OF CONDOMINIUM.

- 3.1 General Description. The Condominium includes ten (10) two-story buildings containing sixty-five (65) condominium Units. The buildings are lettered A through I, inclusive, and K. Each Unit in a building is assigned a number which is indicated on the Exhibits attached to the Original Declaration. Units are numbered consecutively in Building A from Unit A-1 to Unit A-7, starting with A-1 in the southwest corner of the building and ending with A-7 in the northeast corner of the building. Building A consists of one (1) townhouse Unit, three (3) two bedroom courtyard Units and three (3) two bedroom penthouse Units. Units are numbered consecutively in Building B from Unit B-1 to Unit B-7, starting with B-1 in the south end of the building and ending with B-8 in the north end of the building. Building B consists of two (2) townhouse Units, one (1) three bedroom courtyard Unit and one (1) three bedroom penthouse Unit, two (2) two bedroom courtyard Units and two (2) two bedroom penthouse Units. Units are numbered consecutively in Building C from Unit C-1 to Unit C-7, starting with C-1 in the south end of the building and ending with C-7 in the north end of the building. Building C consists of one (1) townhouse Unit, two (2) two bedroom courtyard Units, one (1) three bedroom courtyard Unit, two (2) two bedroom penthouse Units, and one (1) three bedroom penthouse Unit. Units are numbered consecutively in Building D from Unit D-1 to Unit D-7, starting with D-1 in the southeast corner of the building and ending with D-7 in the northwest corner of the building. Building D consists of one (1) townhouse Unit, three (3) two bedroom courtyard Units and three (3) two bedroom penthouse Units. Units are numbered consecutively in Building E from Unit E-1 to Unit E-6, starting with E-1 in the east end of the building and ending with E-6 in the west end of the building. Building E consists of two (2) three bedroom and one (1) two bedroom courtyard Units and two (2) three bedroom and one (1) two bedroom penthouse Units. Units are numbered consecutively in Building F from Unit F-1 to Unit F-4, starting with Unit F-1 at the northeast end of the building with Unit F-4 at the southwest end of the building. Building F consists of two (2) two bedroom courtyard Units and two (2) two bedroom penthouse Units. Units are numbered consecutively in Building G from Unit G-1 to Unit G-8, starting with G-1 in the north end of the building and ending with G-8 in the south end of the building. Building G consists of one (1) three bedroom and three (3) two bedroom courtyard Units and one (1) three bedroom and three (3) two bedroom courtyard Units and one (1) three bedroom and three (3) two bedroom penthouse Units. Units are numbered consecutively in Building H from Unit H-1 to Unit H-8, starting with Unit H-1 in the northwest end of the building and ending with Unit H-8 in the southeast end of the building. Building H consists of one (1) three bedroom and three (3) two bedroom courtyard Units and one (1) three bedroom and three (3) two bedroom penthouse Units. Units are numbered consecutively in Building I from Unit I-1 to Unit I-4, starting with Unit I-1 in the southeast end of the building and ending with I-4 in the northwest end of the building. Building I consists of one (1) three bedroom and one (1) two bedroom courtyard Units and one (1) three bedroom and one (1) two bedroom penthouse Units. Units are numbered consecutively in Building K from Unit K-1 to Unit K-6, starting with K-1 in the southeast

end of the building and ending with K-6 in the northwest end of the building. Building K consists of one (1) three bedroom and two (2) two bedroom courtyard Units and one (1) three bedroom and two (2) two bedroom penthouse Units. All odd numbered Units have a ground level entrance and all even numbered Units have an entrance on the second floor.

Other Improvements may include, but are not limited to, landscaping, automobile parking areas, walkways and entrance ways; all of which are part of the Common Elements, except as is stated otherwise herein.

- 3.2 Survey and Plot Plans of Condominium Property. The survey of the Condominium Property showing the lands, the Buildings and other improvements thereon, together with the plot plans, are attached to the Original Declaration as Exhibits "B", "C", and "D" all of which are incorporated herein by reference. The plot plan, drawings, graphic descriptions, and surveys were prepared by Robert F. Lloyd.
- 3.3 Unit Boundaries. Each Unit will include that part of the Building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:
- (a) Upper and lower boundaries. The upper and lower boundaries of the Units shall be the following boundaries, extended to an intersection with the perimetrical boundaries:
- (1) Upper Boundary – the plane of the undecorated finished ceiling. In a Unit containing a room in which the ceiling is raised above the level of the ceiling in the rest of the Unit, the ceiling shall include the vertical surface connecting the raised ceiling with the ceiling of the remaining portion of the Unit, and the upper boundary shall include the plane of the undecorated finished vertical surface that joins the planes of the undecorated finished horizontal portions of the ceiling.
  - (2) Lower Boundary – the plane of the undecorated finished floor. In a Unit containing a room in which the floor is raised above the level of the floor of the rest of the Unit, the floor shall include the vertical surface connecting the raised floor with the floor of the remaining portion of the Unit, and the lower boundary shall include the plane of the undecorated finished vertical surface that joins the planes of the undecorated finished horizontal portions of the floor.
- (b) Perimetrical boundaries. The perimetrical boundaries of the Units will be the following boundaries extended to an intersection with the upper and lower boundaries:
- (1) Exterior building walls – the intersecting vertical planes adjacent to and which include the exterior of the outside walls of the building bounding a Unit and fixtures thereon; and when there is attached to the building a deck, balcony, loggia<sup>1</sup>, terrace<sup>2</sup>, porch, canopy, stairway, enclosed garage or other portion of the Building serving only the Unit being bounded, except and excluding, however, external access stairways,

<sup>1</sup> This term is used throughout the Original Declaration; however, as used herein, "loggia" shall be one in the same as "porch."

<sup>2</sup> This term is used throughout the Original Declaration; however, it is not presently used by the Unit Owners to describe any portion of a Unit. Accordingly, the term "courtyard" as used herein shall mean "terrace."

such boundaries will be the intersecting vertical planes adjacent to and which include all of such structures and fixtures thereon.

- (2) Interior building walls – the vertical planes of the center line of walls bounding a Unit extended to intersections with other perimetrical boundaries, with the following exceptions:
- (i) If interior building walls separate units from Common Elements or limited common, the perimetrical boundaries of such walls will be the intersecting vertical planes adjacent to and including the surfaces thereof facing the Common Elements or Limited Common Elements.
  - (ii) If walls between Units are of varying thickness, or abut a column or shaft, the plane of the center line of a bounding wall will be extended to an intersection with the connecting bounding plane without regard to the plane of the center line of an intervening column or shaft.
  - (iii) If walls of different thickness abut with a flush side so that their center lines do not intersect, the plane of the center line of the thinner walls will be extended into the thicker wall for a distance which is one-half the thickness of the thinner wall, and the boundary will thence run at right angle to the plane of the center line of the thicker wall.
  - (iv) If exterior faces of unit walls are diametrically opposite from each other, the perimetrical boundary of such Units will proceed through the intersection of such walls at an angle of forty-five degrees from exterior face to exterior face.

- 3.4 Limited Common Elements. As each Condominium Unit was purchased, the Developer assigned to each Unit a covered parking facility. Each covered parking facility so assigned is a Limited Common Element and shall be deemed as an appurtenance to the Condominium Unit to which it was assigned, and such covered parking facility may not be separately conveyed, hypothecated, transferred, encumbered or otherwise dealt with and title thereto shall pass only with title to the Unit to which it is appurtenant.

The Owner of a Unit has the exclusive right to the use of the covered parking facility assigned to the Owner's Unit without separate charge therefor by the Association. The cost of maintenance and administration of the said Limited Common Elements shall be included as part of the Common Expenses applicable to all Units for purposes of assessment. Neither the Association nor any party shall change the covered parking facility that has been assigned to a Condominium Unit. The covered parking facility is an appurtenance to a Unit and shall be encumbered by and subject to any mortgage now or hereafter encumbering said Condominium Unit and upon the conveyance or passing of title to the Condominium Unit to which such assignment has been made, such exclusive right shall pass as an appurtenance thereto in the same manner as the undivided interest in the Common Elements appurtenant to such Unit.

- 3.5 Easements. Subject to the Association's authority to suspend use rights hereunder and under the Act, the following easements are hereby created (in addition to any easements created under the Act):

- (a) Utilities. As may be required for utility services in order to adequately serve the Condominium; provided, however, easements through a Unit shall be only according to the plans and specifications for the Buildings containing the Unit or as the Buildings are actually constructed, unless approved, in writing, by the Unit Owner. As easement shall exist throughout the Common Elements and Limited Common Elements for the purpose of installation, maintenance, repair and replacement of all sewer, water, power and telephone pipers, lines, mains, conduits, wires, poles, transformers and any and all other equipment or machinery necessary or incidental to the property functioning of any utility system.
- (b) Traffic. An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, halls, lobbies, elevators, center cores, and other portions of the Common Elements as may be from time to time intended and designated for such purpose and use and as may be necessary to provide reasonable access to public ways, and for vehicular and pedestrian traffic over, through and across such portions of the Common Elements as may from time to time be paved and intended for such purpose and as may be necessary to provide reasonable access to public ways; and such easement shall be for the use and benefit of the Unit Owners, institutional mortgagees, and/or tenants in the condominium, or members of their respective families and their social guests; provided, however, nothing herein shall be construed to give or create in any person the right to park upon any portion of the Common Elements of the Condominium Property except to the extent that space may be specifically designated and assigned for the parking purposes.
- (c) Easement for Unintentional and Non-Negligent Encroachment. If a Unit encroach upon any Common Element, Limited Common Element or upon any other Unit, by reason of original construction or by the non-purposeful or non-negligent act of the Unit Owner or Developer, then as easement appurtenant to such encroaching Unit to the extent of such encroachment shall exist so long as such encroachment shall exist. If any Common Element or Limited Common Element shall encroach upon any Unit by reason of original construction or the non-purposeful or non-negligent act of the Association or the Developer, then the easement appurtenant to such Common Element or Limited Common Element to the extent of such encroachment shall exist so long as such encroachment shall exist.

3.6 Common Elements. The Common Elements of the Condominium consists of the Land and all other parts of the Condominium Property not within the Units, or which are not specified as Limited Common Elements, and all tangible personal property which is used in the maintenance and operation of the Condominium. The Unit Owner shall not be deemed to own pipes, wires, conduits, or other public utility transmission devices running through any Condominium Unit which are utilized for or serve more than one Condominium Unit, which items are hereby made a part of the Common Elements.

#### 4. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS.

The undivided share in the Common Elements and Common Surplus which is appurtenant to a Unit, and, except as elsewhere provided herein to the contrary, the exclusive right to use all appropriate appurtenant Limited Common Elements shall not be separated from the Unit and shall pass with the title to the Unit, whether or not separately described. The appurtenant share in the Common Elements and Common Surplus, and the exclusive right to use all

Limited Common Elements appurtenant to a Unit, except as elsewhere herein provided to the contrary, cannot be conveyed or encumbered except together with the Unit. The respective shares in the Common Elements appurtenant to Units shall remain undivided, and no action for partition of the Common Elements, the Condominium Property, or any part thereof, shall lie, except as provided herein with respect to termination of the Condominium.

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

- 5.1 Percentage Ownership and Shares. Each Unit shall have, as an appurtenance thereto, an undivided percentage interest in the Common Elements and a percentage share of the Common Expenses and Common Surplus. Each Unit shall have a one-sixty-fifth (1/65) undivided share in the Common Elements.
- 5.2 Voting. An Owner or Owners of a Unit shall collectively be entitled to one (1) vote. The total number of possible votes (the "Voting Interests") shall equal the total number of Units, which is sixty-five (65) Units.
- 5.3 Membership in Association. Each Unit shall have, as an appurtenance thereto, a membership in the Association and in the funds and assets of the Association.
- 5.4 Eligibility to serve on Board of Directors. To be eligible to serve on the Board of Directors, a Person must be a Unit Owner or a permanent occupant of a Unit with the Unit Owner who is related to the Unit Owner by blood, marriage or adoption. Co-Owners of a Unit may not serve on the Board at the same time unless they own more than one Unit or there are not enough eligible candidates to fill the vacancies on the Board at the time of the election. However, any permanent occupant of a Unit who is related to the Unit Owner by blood, marriage or adoption may serve on the Board at the same time as the Unit Owner so long as the Unit Owner owns no more than one Unit.

**6. AMENDMENTS.** Except as elsewhere provided herein, this Declaration may be amended in the following manner:

- 6.1 By the Association. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered or the written agreement through which a proposed amendment is to be considered. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors of the Association or by not less than one-fourth (1/4) of the total voting interests in the Association. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. An amendment proposed pursuant hereto must be approved by not less than a majority (50% +1) of the total Voting Interests in the Association, either at a meeting or by written agreement in lieu of a meeting.
- 6.2 Proviso. Except as provided elsewhere in this document:
- (a) No amendment shall discriminate against any Unit Owner or against any Unit or class or group of Units, unless the Unit Owner so affected shall consent.
- (b) No amendment shall either change any Unit or the share in the Common Elements appurtenant to it, or increase the Unit Owner's share of the Common Expense, unless the record title holder of the Unit concerned and all record

Owners of mortgages on such Unit shall join in the execution of the amendment.

- 6.3 Execution and Recording. An amendment shall be evidenced by a certificate of the Association which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. An amendment of the Declaration is effective when the applicable certificate is properly recorded in the Public Records of Indian River County. No provision of this Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of this Declaration shall contain the full text of the provision to be amended; new words shall be inserted, and 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." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

7. **MAINTENANCE, REPAIR AND REPLACEMENT OF UNITS, LIMITED COMMON ELEMENTS, COMMON ELEMENTS AND ASSOCIATION PROPERTY.**

- 7.1 Units. All maintenance, repairs and replacements of, in or to any Unit, as defined in Section 3.3 hereof, shall be performed by the Owner of such Unit at the Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein. The foregoing responsibility of the Unit Owner includes, but is not limited to, all electrical and plumbing fixtures, shower pans, lines, pipes, outlets, wiring and connections within or serving only that Unit, appliances, carpets and all other floor, wall and ceiling coverings, all interior surfaces, the heating and air-conditioning equipment serving only a particular Unit (wherever situated), and everything else within the boundaries of the Unit except to the extent the Association is specifically responsible therefore under Section 7.3 below. The Unit Owner shall also maintain, repair and replace, at his, her or its sole cost and expense, all portions of any hurricane protection that the Unit Owner may install, upon prior written approval of the Association, including such portion of the Common Elements, if any, to which the hurricane protection is attached. If removal of a Unit Owner's hurricane protection is necessary for the maintenance, repair, or replacement of the common element or Condominium Property for which the Association is responsible, the Association shall remove and reinstall the hurricane protection, at the Association's cost and expense in accordance with Chapter 718. The foregoing does not eliminate the Association's right to use its reasonable discretion or rely upon an expert opinion if the hurricane protection cannot be reinstalled as a result of condition, no proof of installation permit at original installation, non-compliance with current building code or other reasons that prevent the proper re-installation of the hurricane protection shutters.

7.2 Specific Unit Owner Responsibilities.

- (a) The Unit Owner shall be responsible at his or her own expense for the maintenance, repair and replacement of all portions of the air-conditioning and heating systems serving only his or her particular Unit, including, but not limited to, filters, the compressor, condenser, motor, fan, air handler, discharge lines, as well as the air conditioning riser pipes and all related parts, including but not limited to conduits lines and condensation lines serving only one Unit, without

regard to whether such items are located within the boundaries of the Units, except as provided in Section 7.3 below.

- (b) The Unit Owner shall be responsible at his or her own expense for the maintenance, repair and replacement of all exterior window screens (provided, however, screened enclosures on balconies and decks are the maintenance and replacement responsibility of the Association as provided in Section 7.3), exterior doors (excluding painting the exterior surface of the front door serving a Unit), and all windows and sliding glass doors serving a Unit, including, without limitation, frames, locks and operating mechanisms appurtenant to the windows and sliding glass doors, as well as trim and caulking (including caulking for waterproofing as required from time to time). Without limiting the generality of the foregoing, no Unit Owner may decorate, alter or modify exterior screens, doors, or windows or the framework, locks or operating mechanisms thereof in any manner whatsoever, except with the prior written approval of the Board of Directors, as provided in Section 9 hereof. Notwithstanding the foregoing, the Association shall maintain, repair and/or replace the doors or windows in Units that were originally installed in the Unit that have not been replaced (as of the date of recording this Declaration) in accordance with Section 7.3 hereof.
- (c) The Unit Owner shall be responsible at his or her own expense for the maintenance, repair, and replacement of all fans, stoves, hot water heaters, refrigerators, sinks, toilets, tubs, showers, shower pans, or other appliances or equipment, including any fixtures and/or their connections required to provide Utility Service to his Unit.
- (d) The Unit Owner shall be responsible at his or her own expense for the maintenance, repair and replacement of the circuit breaker box within or serving the Unit and all electrical lines, conduits or fixtures running from the circuit breaker box into the Unit up to and including the fixtures or outlets within the Unit. The circuit breaker box shall be replaced upon demand by the Board of Directors in the event that replacement is required by the Association's insurance carrier or the Board of Directors has determined the age or condition of the breaker box establishes a basis for replacement.
- (e) The Unit Owner shall be responsible at his or her own expense for the maintenance, repair and replacement of the main shut-off valves within or serving only the Unit and all plumbing lines, conduits or fixtures running from the main shut-off valve into the Unit up to and including the fixtures or outlets within the Unit and all drain lines within or serving the Unit up to the point the drain line connects to the common line, except and excluding those drain lines which are located, in whole or in part, within a load bearing wall or load bearing slab. This excludes the main shut-off valve outside of the Unit that controls water flow to more than one unit.
- (f) Maintenance and upkeep of the interior areas of any deck, balcony, loggia, courtyard, porch, canopy, or enclosed stairway, including any enclosures or additions made by the Unit Owner, shall be the exclusive responsibility of the Unit Owner to which that deck, balcony, loggia, courtyard, porch, canopy, or stairway shall be appurtenant. This includes any windows, screens or sliding glass doors installed on the deck, balcony, loggia, courtyard, porch, canopy, or stairway, as of the date of recording this Declaration. "Screens" and "enclosures" as used in this paragraph excludes screened enclosures on

balconies and decks which shall be maintained by the Association in accordance with Section 7.3 hereof. Maintenance and upkeep of courtyard perimeter fencing shall be the exclusive responsibility of the Owner of the Unit to which the courtyard shall be appurtenant. Replacement of a Unit's courtyard perimeter fencing shall be subject to approval in accordance with Article 9 of this Declaration. Decks, balconies, and courtyards shall be kept neat and clean and free of any mold or debris. Moreover, lightbulbs within exterior light fixtures shall be the responsibility of the Unit Owner.

- (g) Unit Owners shall promptly report to the Association any defects or need for repairs, the responsibility for the remedy of which is that of the Association within a reasonable amount of time after discovery, but not later than thirty (30) days from the date of discovery of any such defects or need for repairs.
- (h) All maintenance, repair or replacement for which the Units Owners are responsible shall be performed by contractors with appropriate and required licensure and insurance. The Board of Directors may set standards for appropriate levels of insurance and may require proof of licensure, insurance and the procurement of any required permits before permitting a contractor on the Condominium Property by promulgating Rules and Regulations. The Board may deny access to the property to any contractor performing work that requires approval from the Board of Directors hereunder until such approval has been granted in the manner required herein. The Unit Owner also agrees to comply with the requirements of Chapter 713, Florida Statutes, and to indemnify the Association and its members from any construction liens which may attach to Common Elements and which are attributable to work performed by or for the benefit of the Unit Owner. The Board may establish rules regarding contractor access to the Condominium Property, including rules regarding work hours, and may require a Unit Owner to post a damage/cleaning deposit in advance of commencing any work.
- (i) All floors in all Units that are above another Unit shall be covered in accordance with rules promulgated by the Association so as to abate the noise which may be created and transmitted to the Unit or Common Elements of the Unit lying below. All hard surfaces must have approved noise abatement. In the event the Board of Directors determines that any noise is being transmitted to another Unit or to Common Elements and that such noise is unreasonable, then the Owner of such Unit shall, at his expense, take such steps as shall be necessary to abate such noise to the satisfaction of the Board.

7.3 Association's Responsibilities; Common Elements and Association Property. Except to the extent (i) expressly provided to the contrary herein; or (ii) proceeds of insurance are made available therefore, the Association shall be responsible, at common expense:

- (a) All maintenance, repairs and replacements in or to the Common Elements, Limited Common Elements and Association Property, except as otherwise provided in Sections 7.1 or 7.2 hereof;
- (b) All portions of the Condominium (except interior wall surfaces of Units) contributing to the support of the Building, which portions shall include, but not be limited to, the outside walls of the Building, chasing and load bearing railings, walls or columns, or boundary walls of Units and roofs;

- (c) All fixtures on the exterior of the Buildings, including, but not limited to, light fixtures located within balconies, except as otherwise provided in Sections 7.1 or 7.2 hereof. The time at which the Association must maintain, repair, or replace the light fixtures is at the sole discretion of the Association and shall be based upon the necessity of maintenance, repair, or replacement. The Board may establish rules governing the size, style and color of light fixtures installed on the exterior of a Unit. The Board also reserves the right to replace all exterior lighting in the future to ensure uniformity;
- (d) All floor and ceiling slabs, including, but not limited to, the slabs of all and balconies; provided, however, if a floor slab requires work or maintenance to access a Unit Owner's HVAC conduit lines, the work shall be performed by the Association at the expense of such Unit Owner subject to Section 12.9 hereof;
- (e) Fencing surrounding one or more air compressors;
- (f) Wiring and other facilities for the furnishing of Utility Services to the Common Elements or Association Property;
- (g) All electrical lines and/or conduits from the shared or common distribution facility or conduit serving more than one Unit up to, but not including, the juncture where an electrical line or conduit serves only one Unit;
- (h) All plumbing lines, conduits or fixtures from the shared or common distribution facility or conduit up to, but not including, the exterior main shut off valve serving only one Unit, and all drain lines serving the Common Elements or more than one Unit;
- (i) All air conditioning supply pipes, return pipes and ball valves serving the Common Elements;
- (j) All other utilities contained within a Unit which service part or parts of the Condominium other than the Unit within which contained;
- (k) All property owned by the Association;
- (l) The exterior surface of the front doors serving the Units and Limited Common Element storage room doors;
- (m) Windows, window screens and sliding glass doors as originally installed by the Developer shall be repaired or replaced by the Association as a Common Expense. The time at which the Association must maintain, repair, or replace the originally installed windows, window screens and sliding glass doors is at the sole discretion of the Association and shall be based upon the necessity of maintenance, repair, or replacement. Following replacement of original windows, window screens and doors, the Unit Owner shall be responsible and obligated to maintain, repair, and replace all windows, including skylights, and sliding glass doors serving a Unit.
- (o) The screened enclosures on a balcony or deck, shall be maintained, repaired and replaced by the Association. The time at which the Association must maintain, repair, or replace the exterior screens is at the sole discretion of the Association and shall be based upon the necessity of maintenance, repair, or replacement. The Board may establish specifications for screened enclosures

installed on a Unit's balcony or deck. The Board also reserves the right to replace all screened enclosures on a balcony or deck in the future to ensure uniformity.

- (p) All incidental damage caused to a Unit by such work up to a maximum of \$1,000.00 per Unit (unless caused by negligent or intentional misconduct for which the Association is responsible, in which case no limitation shall apply).

The Association's aforementioned responsibilities shall not apply to the extent such maintenance, repair or replacement arises from or is necessitated by the negligence, misuse or neglect of one or more Unit Owners, their families, tenants, guests or invitees, in which case such cost and expense shall be paid solely by such Unit Owners, and shall be enforceable in the same manner as any Assessment under Section 12 hereof, including, but not limited to, by recordation and foreclosure of a claim of lien against the Unit.

- 7.4 Construction During Season. The Board of Directors is empowered to make and amend rules regulating construction on the property by Unit Owners, which may include, without limitation, the delineation of portions of the year during which certain types of construction, renovation, repair or other work in a Unit shall be prohibited.
- 7.5 Inspection of Unit during Owner's Absence. Where a Unit Owner is absent from his Unit, it is incumbent on the Owner to routinely and periodically examine and inspect the Unit to ensure the absence of leaks and conditions that would otherwise lead to damage to the Common Elements, other Units and/or personal property or the Unit. Each Unit Owner is responsible to arrange for periodic inspections of the Owner's Unit whenever the Unit is vacant for a period of at least thirty (30) consecutive days. The Owner shall provide the Association with the name and contact information of the party to perform such periodic inspections for the Unit Owner during the Unit Owner's absence and for purposes of an emergency. Prior to leaving the Unit for an extended period of time, the Owner shall ensure that water is shut off to the Unit at the valve. The Board of Directors of the Association may promulgate such Rules and Regulations from time to time as the Board deems necessary to further implement the requirements of this paragraph and such Rules and Regulations that are not inconsistent with this paragraph.
- 7.6 Periodic Inspection, Maintenance, Repair and Replacement.
- (a) The Board of Directors may, from time to time in sound business judgment, determine that certain portions of the Owners' Units required to be maintained by the Owners, or certain objects or appliances within the Units, pose a particular risk of damage to other Units and to the Common Elements if they are not properly maintained, repaired, or replaced. By way of example, water valves, water heaters, and toilet seals or similar fixtures or appliances that are commonly known to cause water damage.
- (b) The Board of Directors may require one or more of the following with regard to the maintenance or inspection of the components:
1. That it be inspected at specified reasonable intervals by a licensed contractor based upon the age of the components.
  2. That it be replaced or repaired at specified reasonable intervals or with reference to manufacturers' warranties unless the Unit Owner can show an inspection that substantiates good working condition.

3. That it be replaced or repaired with items or components meeting particular standards or specifications established by the Board of Directors.
  4. That it be replaced or repaired by contractors having particular licenses, training, or professional certification, or by contractors approved by the Board of Directors.
- (c) The imposition of requirements by the Board shall not relieve a Member of his or her obligations perform and pay for maintenance, repairs and replacement.
- (d) Specific Authority regarding Water Heaters. Unit Owners must replace their Unit's water heater during the calendar year in which the water heater reaches its tenth year of age or provide an inspection report by a licensed contractor. Upon replacement of the water heater, the safety pan that sits below the water heater shall be replaced with a pan that is not less than four (4) inches in height, or such height as is required by the Florida Building Code, the County of Indian River, Florida, or the City of Vero Beach.

7.7 Disclaimer, Waiver and Release of Claims Regarding Mold and Mildew. Mold occurs naturally in almost all indoor environments. Mold spores may also enter the Condominium Unit through open doorways, windows or a variety of other sources. The Unit Owner acknowledges that the Condominium is located in a hot, humid climate ("Florida Environment"), which is conducive to the growth of mold and/or mildew. Mold and/or mildew may be present during or after construction in the indoor air and/or on the interior surfaces of the Unit, including, but not limited to, wall cavities, windows, and/or on the exterior surfaces of the Unit or any part thereof.

- (a) DISCLAIMER AND RELEASE OF CLAIMS. THE ASSOCIATION SHALL NOT BE RESPONSIBLE FOR THE PREVENTION OF MOLD AND/OR MILDEW OR ANY DAMAGES, INCLUDING, BUT NOT LIMITED TO ANY SPECIAL OR CONSEQUENTIAL DAMAGES, PROPERTY DAMAGES, PERSONAL INJURY, LOSS OF INCOME, EMOTIONAL DISTRESS, DEATH, LOSS OF USE, LOSS OF INCOME, DIMINUTION OR LOSS OF VALUE OF THE UNIT, ECONOMIC DAMAGES, AND ADVERSE HEALTH EFFECTS RELATING TO, ARISING FROM OR CAUSED BY MOLD AND/OR MILDEW ACCUMULATION REGARDLESS OF THE CAUSE OF SAID MOLD/MILDEW. EACH UNIT OWNER (BY VIRTUE OF HIS OR HER ACCEPTANCE OF TITLE TO HIS OR HER UNIT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE CONDOMINIUM PROPERTY (BY VIRTUE OR ACCEPTING SUCH INTEREST OR MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL CLAIMS, OBLIGATIONS, DEMANDS, DAMAGES, CAUSES OF ACTION, LIABILITIES LOSSES AND EXPENSES, WHETHER NOW KNOWN OR HEREAFTER KNOWN, FORESEEN OR UNFORESEEN, THAT PURCHASER, OWNER AND INTEREST HOLDER HAS, OR MAY HAVE IN THE FUTURE, IN LAW OR IN EQUITY ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH INDOOR AIR QUALITY, MOISTURE, OR THE GROWTH, RELEASE, DISCHARGE, DISPERSAL OR PRESENCE OF MOLD AND/OR MILDEW OR ANY CHEMICAL OR TOXIN SECRETED THEREFROM.

**8. ADDITIONS, ALTERATIONS OR IMPROVEMENTS TO COMMON ELEMENTS OR ASSOCIATION PROPERTY BY THE ASSOCIATION.**

The Association shall have the right to make or cause to be made changes, alterations or improvements to the Common Elements, as well as substantial additions to the Common Elements or the real property owned by the Association, whether the same may be considered a "material alteration" under the Act, including color selections and other changes, as long as the cost is not more than five percent (5%) of the Association's budget, including reserves, for the fiscal year in which the work is authorized, including reserves, in any one fiscal year without prior approval of the Unit Owners. Material alterations or substantial additions costing more than that amount shall be approved by at least a majority (50%+1) of the total Voting Interests in the Association, voting in person or by proxy at a meeting called for that purpose. Work that is reasonably necessary to protect, maintain, repair, replace, or insure the Common Elements or Association property or to comply with any local, state, or federal law or regulation shall not be considered a material alteration or substantial addition to the Common Elements, and no prior Unit Owner approval is required. Alterations made for the purpose of protecting the Common Elements or for the safety of the residents of Condominium shall not be deemed to be a "material alteration".

Notwithstanding the foregoing, the Association may alter or add to the Condominium Building's electrical system components to facilitate electrical vehicle charging, by Unit Owner(s) or the Association, without a vote of the Unit Owners regardless of the cost of such alteration(s) or upgrade(s).

**9. ADDITIONS, ALTERATIONS OR IMPROVEMENTS TO UNITS, LIMITED COMMON ELEMENTS, COMMON ELEMENTS AND ASSOCIATION PROPERTY BY UNIT OWNER.**

9.1 Prohibited Alterations. Subject to Section 9.2 below, no Unit Owner shall make any addition, alteration or, improvement in or to the Common Elements or Association Property.

9.2 Consent of the Association. Effective as of the date of recording this Declaration, no Unit Owner shall make any addition, alteration or improvement in or to the interior of the Unit or to the Limited Common Elements appurtenant to his or her Unit which is structural in nature or which impacts the Common Elements in any way, including, but not limited to, any work which involves materially piercing the exterior of the Condominium Building. Any and all requests for electrical, mechanical or structural additions, alterations or improvements must be in writing and must be submitted to the Association with plans prepared and sealed by the appropriate professional (i.e., architect, engineer, etc.). The Board shall have the obligation to answer any written request by a Unit Owner for approval of such an addition, alteration or improvement within forty-five (45) days after receipt of such request and all sealed plans or forty-five (45) days after receipt of any additional information requested by the Board within forty-five (45) days of receipt of the initial request. Failure to respond within the stipulated time shall not constitute the Board's consent. The Board may condition its approval hereunder on the payment of such fees and charges and the posting of such deposits as the Board deems necessary and appropriate and the Board is hereby authorized to adopt and amend guidelines establishing such fees, charges and deposits. The proposed additions, alterations and improvements by the Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction, which may not be waived by the Association under any circumstances, and with any conditions imposed by the

Association with respect to design, structural integrity, aesthetic appeal, construction details, lien protection or otherwise. Once approved by the Board of Directors, such approval may not be revoked. A Unit Owner making or causing to be made any such additions, alterations or improvements agrees, and shall be deemed to have agreed, for such Owner, and all future Owners of the Unit, and their heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, its Board members, officers and employees, and all other Unit Owners harmless from and to indemnify them for any liability or damage to the Condominium Property and expenses arising therefrom, and shall be solely responsible for the maintenance, repair, replacement and insurance for such additions, alterations or improvements from and after the date of installation or construction thereof as may be required by the Association, and shall also be responsible for all costs associated with removal and reinstallation of same when necessary, in the discretion of the Board of Directors, in connection with the Association's performance of its maintenance obligations under this Declaration. The Board may impose the requirements set forth in Paragraph 7.2(h) above and may require the execution of a covenant to run with the Unit to memorialize the application, approval, conditions of approval and future obligations of the Unit Owner and may condition its approval of any addition, alteration or improvement hereunder upon the preparation, execution and recording of such a covenant at the Unit Owners expense.

- 9.3 Additional Unit Owner Responsibility for Alterations and Additions. Any modifications, installations, or additions to the interior or exterior of the Unit made by a Unit Owner shall be the financial responsibility of the Unit Owner and his or her grantees, heirs, successors and assigns and any future Owners of the Unit, including, but not limited to, insurance, maintenance, repair, and replacement of the modifications, installations or additions, regardless of whether the modification, installation or addition was installed by the current or a former Unit Owner. If a Unit Owner makes any changes to Limited Common Elements, Common Elements or Condominium Property, the Association may require any modification, alteration, or addition to the Condominium Property installed by a Unit Owner to be removed by and at the expense of the Owner in connection with the Association's discharge of its obligations under Section 7. In such cases, if the Association advances the cost of removal and/or reinstallation of such improvements, the Unit Owner who installed the alteration, addition, or improvement (and/or his or her successors in title) shall be obligated to reimburse the Association for any costs incurred by the Association in connection with the removal and/or re-installation of the alteration, addition or improvement, with said obligation being secured by a lien enforceable in the same manner as a lien for Common Expenses as provided in Section 12 herein below. Further, the Association, its contractors and agents, shall not be liable for any damage to the item arising out of its removal and/or re-installation, unless occasioned by the gross negligence or willful misconduct of the Association or its contractor or agent.
- 9.4 Unit Owners may not puncture or otherwise alter (by nails, hooks, screws or otherwise) a deck, balcony, loggia, courtyard, porch, canopy, stairway, floors, walls, or ceilings, without obtaining the prior written approval of the Board of Directors. Unit Owners may not install a flooring material (e.g., tile, marble, paint, or similar improvements) on a deck, balcony, loggia, courtyard, porch, canopy, or stairway. The Unit Owners may add texturing, at the Unit Owners' sole expense, to the floor of a deck, balcony, loggia, courtyard, porch, or canopy, with the prior written approval of the Association.

**10. OPERATION OF THE CONDOMINIUM BY THE ASSOCIATION POWERS AND DUTIES.**

- 10.1 Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the Articles of Incorporation and Bylaws of the Association, as amended from time to time. In addition, the Association shall have (i) all the common law and statutory powers of a corporation not for profit and for profit under the laws of Florida that are not in conflict with the provisions of the Articles, the Declaration, the Bylaws or the Act; (ii) the powers and duties set forth in the Act; as well as (iii) all powers and duties granted to or imposed upon it by this Declaration, including without limitation:
- (a) The irrevocable right to have access to each Unit from time to time during reasonable hours when necessary for the inspection, maintenance, repair or replacement of any Common Elements, Association Property, or of any portion of a Unit to be maintained by the Association pursuant to this Declaration or at any time as necessary to prevent damage to the Common Elements, Association Property, or to a Unit or Units. Unit Owners shall be required to provide the Association with a key for access to the Unit for the foregoing purposes. If the Owner fails to provide a key that provides access to the Unit, the Association shall not be liable for any damage caused to the Unit or to the Unit Owner's property as a result of the Association gaining access to the Unit or any delay in gaining such access, and the Unit Owner shall be liable for any costs incurred by the Association in obtaining access. The Unit Owner shall be given advanced notice of any non-emergency access.
  - (b) The power to make and collect regular and special Assessments and other charges against Unit Owners and to regulate, administer, convey, lease, maintain, repair and replace the Common Elements and Association Property.
  - (c) The power to acquire or convey title to real property (excluding Units in the Condominium) and to mortgage real property upon the approval of seventy-five percent (75%) of all the voting interests of the Association either at a meeting or by written agreement.
  - (d) The power to purchase Units in the Condominium and to hold, lease, mortgage or sell a Unit so acquired.
  - (e) The power to acquire, sell or mortgage personal property and to hold, regulate, administer, lease, maintain, repair, and replace same.
  - (f) The right to grant, modify or move easements which are part of or cross the Common Elements or Association Property.
  - (g) The duty to maintain official records according to good accounting practices, and the requirements of the Condominium Act, as same may be amended from time to time.
  - (h) The power to contract for the management and maintenance of the Condominium Property and to authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of

records, enforcement of rules, maintenance, repair and replacement of those portions of the Condominium Property for which the Association is obligated or authorized to provide same and such other management functions as the Board of Directors may delegate with such funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted in the Condominium documents and the Act, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.

- (i) The power to borrow money, execute promissory notes and other evidences of indebtedness and to give as security therefore mortgages and security interests in property owned by the Association, subject to the limitation on mortgaging Association real property set forth in Paragraph (c) of this Section 10.1.
- (j) The power to adopt and amend Rules and Regulations concerning the details of the operation and use of the Units, the Common Elements, Association Property and the Condominium Property.
- (k) The power to lease and/or charge a fee for the exclusive use of Common Elements (other than Limited Common Elements) or Association Property to any Unit Owner or other third party being granted a right to such exclusive use.
- (l) All of the powers which a corporation not for profit in the State of Florida may exercise.

In the event of conflict among the powers and duties of the Association and the terms and provisions of this Declaration, or the Exhibits referenced herein, this Declaration shall take precedence over the Articles of Incorporation, Bylaws and applicable Rules and Regulations; the Articles of Incorporation shall take precedence over the Bylaws and applicable Rules and Regulations; and the Bylaws shall take precedence over applicable Rules and Regulations, all as amended from time to time. Notwithstanding anything in this Declaration or its exhibits to the contrary, the Association shall at all times be the entity having ultimate control over the Condominium, consistent with the Act.

- 10.2 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium Property, the Association shall have no liability to Unit Owners for injury or damage caused by any latent condition of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements done by or on behalf of any Unit Owners regardless of whether or not same shall have been approved by the Association pursuant to this Declaration. Further, the Association shall not be liable to any Unit Owner or lessee or to any other person or entity for any property damage, personal injury, death or other liability on the grounds that the Association did not obtain or maintain insurance (or carried insurance with any particular deductible amount) for any particular matter where (i) such insurance is not required hereby or (ii) the Association could not obtain such insurance at reasonable costs or upon reasonable terms.

- 10.3 Restraint Upon Assignment of Shares in Assets. The share of a Unit Owner in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the Unit.
- 10.4 Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting or vote by written agreement, that decision shall be expressed by the same person who would cast the vote for that Unit if at an Association meeting, unless the joinder of all record Owners of the Unit is specifically required by this Declaration or by law.
- 10.5 Acts of the Association. Unless the approval or action of Unit Owners and/or a certain specific percentage of the Board of Directors of the Association is specifically required in this Declaration, the Articles of Incorporation or Bylaws of the Association, applicable Rules and Regulations or applicable law, all approvals or actions required or permitted to be given or taken by the Association under the Declaration, Articles of Incorporation or Bylaws shall be given or taken by the Board of Directors, without the consent of Unit Owners, and the Board may so approve and act through the proper officers of the Association without a specific resolution.

**11. DETERMINATION OF COMMON EXPENSES AND FIXING OF ASSESSMENTS THEREFORE.**

The Board of Directors shall from time to time, and at least annually, prepare a budget for the Association, determine the amount of Assessments payable by the Unit Owners to meet the Common Expenses and allocate and assess such Assessments among the Unit Owners in accordance with the provisions of this Declaration and the Bylaws. Additionally, the Board of Directors may levy special assessments when determined by the Board of Directors to be necessary. The Board of Directors shall advise all Unit Owners promptly in writing of the amount of the Assessments payable by each of them as determined by the Board of Directors as aforesaid and shall furnish copies of each budget, on which such Assessments are based, to all Unit Owners. Incidental income to the Association, if any, may be used to pay regular or extraordinary Association expenses and liabilities, to fund reserve accounts, or otherwise as the Board shall determine from time to time, and need not be restricted or accumulated. Any Budget adopted shall be subject to change to cover actual expenses at any time. Any such change shall be adopted consistent with the provisions of the Bylaws.

**12. COLLECTION OF ASSESSMENTS.**

- 12.1 Liability for Assessments. A Unit Owner, regardless of how title is acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, shall be liable for all Assessments and other charges coming due while that person is the Unit Owner, including interest, late charges, attorneys' fees and costs, if any. Except as provided in Section 12.4 below, the Unit Owner shall also be jointly and severally liable with the previous Owner for all unpaid Assessments and other charges that came due up to the time of the transfer of title, including interest, late charges, attorneys' fees and costs, if any. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. The person acquiring title shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the Unit and proceed in the same manner as provided herein and in the Act for the collection of unpaid Assessments. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or Association Property or by the abandonment of the Unit for which the Assessments are made or otherwise. No Owner or acquirer of title to a Unit by

foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any assessments coming due during the period of his ownership. To the extent this paragraph is inconsistent with Section 718.116 of the Act, this paragraph shall govern.

- 12.2 Default in Payment of Assessments for Common Expenses. Assessments and installments thereof not paid within ten (10) days from the date when they are due shall bear interest at the highest lawful rate from the date due until paid. In addition to the above stated interest, the Association shall charge an administrative late fee in an amount not to exceed the highest amount provided for in the Act, on Assessments and installments thereof not paid when due. All partial payments upon account shall be applied in the manner prescribed in the Act. The Association has a lien on each Condominium Parcel to secure the payment of Assessments. The lien shall have such priority as may be provided in the Act. All claims of lien must state the description of the Condominium Parcel, the name of the record Owner, the name and address of the Association, the amount due and the due dates and must be executed and acknowledged by an officer or authorized agent of the Association. The claim of lien shall secure (whether or not stated therein) all unpaid Assessments, which are due at the time a claim of lien is recorded, as well as all regular and Special Assessments which may be levied or which may accrue subsequent to the recording of the claim of lien and prior to satisfaction of the lien or the issuance of a certificate of title, together with interest, late charges and all reasonable costs and attorney's fees incurred by the Association incident to the collection and foreclosure process. Upon payment in full, the person making the payment is entitled to a satisfaction of the lien. The Association may bring an action in its name to foreclose its lien in the same manner a mortgage of real property is foreclosed and may also bring an action at law to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid, the Association may declare the Assessment installments for the remainder of the fiscal year in which a claim of lien has been filed to be accelerated, as provided in Section 12.7 below.
- 12.3 Assignment of Rents. The Association is hereby granted a lien against any rents derived from the Unit which shall have the same priority as the Association's lien for unpaid assessments against the Unit. Except to the extent limited by the Act, the lien on any rentals derived from the Unit shall be enforceable by the delivery of written notice to the Owner and the tenant demanding the payment of the rents, provided, however, that no such demand may be made unless and until the Owner is delinquent in the payment of any Assessment or other charge due and payable to the Association by the Unit Owner under this Declaration.
- 12.4 First Mortgagee. First Mortgagee acquiring title to a Condominium Parcel as a result of foreclosure of its first mortgage, or by deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of any of the Common Expenses coming due during the period of such ownership. In addition, the First Mortgagee is liable for the share of Common Expenses or Assessments or other charges imposed by the Association pertaining to such Condominium Parcel which became due prior to acquisition of title as a result of the foreclosure or the acceptance of such deed; provided, however, the First Mortgagee's liability is limited to the maximum amount set forth in the Act. If any unpaid share of Common Expenses or Assessments or other charges is extinguished by foreclosure of a superior lien or by a deed in lieu of foreclosure thereof, the unpaid share of Common Expenses or Assessments are Common Expenses collectible from

all of the Unit Owners, including such acquirer, and such acquirer's successors and assigns.

- 12.5 Certificate of Unpaid Assessments. Within ten (10) business days after request by a Unit Owner or mortgagee of a Unit, the Association shall provide a certificate stating whether all Assessments and other moneys owed to the Association by the Unit Owner with respect to his Unit have been paid. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby. The Association or its authorized agent may charge a reasonable fee for the preparation of the Certificate.
- 12.6 Installments. Regular Assessments may be collected monthly or quarterly, in advance, at the option of the Board of Directors. Special assessments shall be payable on such terms as may be established by the Board.
- 12.7 Acceleration of Assessment Installments Upon Default. If a Unit Owner shall be in default in the payment of an installment upon an Assessment, the Board may accelerate the remaining installments of the Assessment upon notice to the Unit Owner, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice.
- 12.8 Set Off. Any funds due and payable by the Association to a Unit Owner under this Declaration of Condominium, the Articles of Incorporation or the Bylaws, or under the Act, shall be subject to a right of set-off for any amounts due and owing to the Association by the Unit Owner under this Declaration, the Articles of Incorporation, the Bylaws, or the Act.
- 12.9 Individual Assessments. All costs and expenses incurred by the Association in connection with its obligations set forth in Section 7.3(d) shall be levied and collected as an Individual Assessment against the Unit for which the work is performed. Also, the Association shall have the power and authority to levy and collect an Individual Assessment against a particular Unit for the cost of maintenance, repairs or replacements to the Common Elements, or any other property to be maintained by the Association, necessitated by the negligent or willful acts of an Owner or his invitees, licensees, family or guests, or for the cost of maintenance, repairs or replacements within or without the Unit, which the Owner thereof has failed or refused to perform. The Association shall have the right to enter into each Unit to perform necessary maintenance, repairs and replacements, including the right to abate or eliminate any nuisance within its sole discretion but is not obligated to exercise this right and said right of entry and authority is not required to be exercised prior to or as a condition precedent to the Association seeking other legal remedies. The Individual Assessment may include an administrative fee charged by the Association in an amount to be determined by the Board of Directors, in its discretion, from time to time. All Individual Assessments shall be collected in such manner as the Board of Directors shall determine, including but not limited to the right to foreclose a lien for said assessments in accordance herewith.
- 12.10 Community System Services. The Association shall have the right but not the obligation to enter into one or more agreement(s) ("Bundled Service Agreements") for receipt of television (via cable, satellite or otherwise), entertainment, telecommunication, internet, alarm monitoring and/or other services (collectively, "Bundled Services") for Units in the Condominium. Any and all costs and expenses incurred by the Association under or pursuant to any Bundled Service Agreements entered into by the Association for Bundled Services will be assessed against all Unit Owners. It is contemplated that there may be features and services that are or will be

available in addition to and not part of the Bundled Services (i.e., a service not automatically received by all Unit Owners entitled to receive Bundled Services pursuant to a Bundled Service Agreement, with each such service shall be referred to as an "Optional Service"). Unit Owners will be responsible for any Optional Services elected by the Unit Owner, and the charges therefore shall be billed directly to the Unit Owner. Additionally, Unit Owners may be responsible for the hook-up costs, and the costs of any converter boxes and remote control units provided to a Unit Owner unless otherwise provided in the Bundled Services Agreement. Further, Unit Owners will be responsible for and agree to indemnify and hold the Association harmless from any damages caused by the Unit Owner, his tenants, guests and invitees to equipment provided to Unit Owner by a Bundled Service provider. Notwithstanding anything contained to the contrary in this Declaration, the costs and expenses charged to the Association under any Bundled Service Agreement shall be apportioned equally to all Units in the Condominium, except all Optional Services are specifically excluded and each Owner shall be responsible for paying the costs of all such Optional Services. A Unit Owner's non-use of any Bundled Service shall not entitle the Unit Owner to avoid the obligation for the portion of the assessment attributable to that Unit Owner's Unit under the Bundled Service Agreement. The Association shall have an easement to access each Unit on the Condominium Property to install and maintain necessary equipment and wiring associated with Bundled Services. Such easement shall also be in favor of the Bundled Service provider. In the event a Unit Owner or a Unit Owner's representative, tenant, guest or invitee, interferes with the installation or maintenance of the wiring and equipment necessary to provide the Bundled Service the Association contracts for under a Bundled Service Agreement, the Unit Owner of the Unit where the interference is caused shall be indemnify the Association for all additional expenses caused by the interference, including attorneys' fees and costs, which shall be a personal liability of the Unit Owner and a special assessment against the Unit, which shall be collectable in the same manner as other unpaid assessments levied by the Association as provided in this Declaration.

12.11 Abandoned Property. The Association, at the sole discretion of the Board, may enter an abandoned Unit to inspect the Unit and adjoining Common Elements; make repairs to the Unit or to the Common Elements serving the Unit, as needed; repair the Unit if mold or deterioration is present; turn on the utilities for the Unit; or otherwise maintain, preserve, or protect the Unit and adjoining Common Elements. The Association shall be subject to the provisions for abandonment provided by the Act.

13. INSURANCE. The insurance, other than optional title insurance, that shall be carried on the Condominium Property (both real and personal) of the Association, and the property of the Unit Owners shall be governed by the following provisions:

13.1 Authority to Purchase Insurance. All insurance policies shall be purchased by the Association for the benefit of the Association and the Unit Owners and their mortgagees as their respective interests may appear.

13.2 Coverage. All provisions pertaining to insurance coverage shall be construed in accordance with the Act, and insurance policies purchased by the Association is intended to comply with all coverage requirements of the Act.

(a) Liability Insurance. The Association shall obtain and maintain public liability insurance covering all of the Common Elements and Association Property and insuring the Association and the Unit Owners as their interest may appear in such amount as the Board may deem appropriate. The Board has authority to compromise and settle all claims against the Association or upon insurance

policies held by the Association. The Unit Owners shall have no personal liability upon such claims, except as may be otherwise provided by law, and nothing herein contained shall in any way be construed as imposing upon the Association a duty to assess Unit Owners for the purpose of raising sufficient funds to discharge any liability in excess of insurance coverage.

- (b) Casualty Insurance. The Board of Directors of the Association shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance, insuring all of the insurable improvements within the Condominium, including property owned by the Association, in and for interests of the Association, all Unit Owners and their mortgagees, as their interests may appear, in a company acceptable to the standards set by the Board of Directors of the Association, in an amount equal to the maximum insurance replacement value of the property as determined annually by the Board of Directors of the Association. Notwithstanding the foregoing requirement, the Association, through its Board of Directors, will have fulfilled its duty to obtain insurance coverage if it obtains and maintains such insurance coverage as may be reasonably available from time to time given market and economic conditions, provided such coverage shall always meet the minimum level of adequate coverage required by Section 718.111(11), *Florida Statutes*, as same may be amended from time to time.
  - (c) The Board of Directors of the Association may obtain Workmen's Compensation Insurance in order to meet the requirements of law.
  - (d) The Board of Directors of the Association may obtain Flood Insurance to meet the requirements of federal, state and local law.
  - (e) The Board of Directors of the Association shall obtain such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.
- 13.3 Waive Subrogation. If available, and where applicable; the Board of Directors of the Association shall endeavor to obtain policies which provide that the insurer waives its right to subrogation as to any claim against Unit Owners, the Association, their respective servants, agents and Guests.
- 13.4 Premiums. Premiums upon insurance policies purchased by the Board of Directors of 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 losses shall be paid to the Association. The sole duty of the Board of Directors shall be to receive such proceeds as are paid to the Association and hold the proceeds in trust for the benefit of the Association, the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth on the records of the Association:
- (a) Common Elements. Proceeds on account of damaged Common Elements - an undivided share for each Unit Owner, such share being the same as an undivided share in the Common Elements appurtenant to his Unit.
  - (b) Property (both real and personal) of the Association. Proceeds on account of damaged property of the Association -an undivided share for each Unit Owner, such share being the same as an undivided share in the Common Elements appurtenant to his Unit.

- (c) Units. Proceeds on account of damage within the Units shall be held in undivided shares based on the pro-rated amount of damage within each damaged Unit as a percentage of the total damage within all Units, except that if the Condominium is terminated then the insurance proceeds shall be allocated as provided in the Plan of Termination adopted in accordance with Section 718.117, *Florida Statutes*, which allocation may or may not be the same as the Unit Owner's share in the Common Elements.
- (d) Mortgagees. In the event a mortgagee endorsement has been issued to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that 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 distribution of such proceeds made to the Unit Owner and mortgagee pursuant to the provisions of this Declaration.

13.5 Distribution of Proceeds. Proceeds of insurance policies received by the Board of Directors of the Association shall be distributed in the following manner:

- (a) Reconstruction or Repair. If the damage for which the proceeds are paid is to be reconstructed or repaired by the Association, the proceeds shall be paid to defray the costs thereof. All costs of construction and repair in excess of the insurance proceeds received by the Association shall be paid by the Association as a common expense. Any insurance proceeds remaining after paying the construction and repair costs shall be allocated to reserves as determined by the Board of Directors.
- (b) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided herein that the damages for which the proceeds are paid shall not be reconstructed or repaired, but the Condominium is not to be terminated, the remaining proceeds shall be allocated to reserves as determined by the Board of Board of Directors. If the Condominium is terminated, the proceeds shall be distributed according to Section 718.117(17), *Florida Statutes*. In the event of loss or damage to personal or real property belonging to the Association, and should the Board of Directors of the Association determine not to replace such personal or real property as may be lost or damaged, the proceeds shall be allocated to the Association's reserves in the manner determined by the Board of Directors, unless the Condominium is terminated, in which case the proceeds shall be distributed according to Section 718.117(17), *Florida Statutes*.
- (c) Certificate. In making any distribution to Unit Owners and their mortgagees, the Board of Directors may rely upon a certificate of the Association, as to the names of the Unit Owners and their respective shares of the distribution, provided, however, that such certificates shall not be binding insofar as mortgagees of Units are concerned. The Association shall obtain appropriate certificates from all such mortgagees prior to any disbursement to Unit Owners or mortgagees.

13.6 Unit Owner Insurance. Each Unit Owner is responsible for insuring his own Unit, and the personal property therein; all floor, wall and ceiling coverings; all built-in cabinets,

appliances, water heaters, and electrical fixtures serving the unit and all alterations, additions and improvements made to the unit or the Common Elements by the owner or his predecessors in title. Each Unit Owner shall carry a Florida Condominium Insurance Policy (commonly referred to as an "H06 policy") with endorsements for mold contamination, mildew, fungus leakage, additions and alterations, and special assessment loss protection (to the extent each such endorsement is available for purchase). Each Unit Owner shall provide the Association a certificate of insurance evidencing compliance with this paragraph.

**14. RECONSTRUCTION OR REPAIR AFTER CASUALTY.**

- 14.1 Damage to Units. Where loss or damage occurs within one or more Units, any Association insurance proceeds received on account of the loss or damage shall be used as provided herein. The Association shall be responsible for reconstruction and repair, including the costs thereof in excess of the insurance proceeds from the Association insurance, for all portions of the Unit that it insures and/or is otherwise required to maintain, repair, or replace pursuant to this Declaration or the law. The Unit Owner shall be responsible for reconstruction and repair, including the costs thereof in excess of the insurance proceeds from his or its insurance, for all portions of the Unit and/or Limited Common Elements that the owner insures and/or is otherwise required to maintain, repair, or replace pursuant to this Declaration or the law. The foregoing notwithstanding, if the Board of Directors determines, in its sole and exclusive discretion, that due to the nature or the extent of the damage to the Unit or Units that it is in the best interest of the Association that all the reconstruction and repair be made by the Association, then the Association shall be entitled to receive all insurance proceeds, contract for the repairs, make the repairs, and thereafter distribute the excess unused proceeds of the Unit Owner's insurance, if any, to the Unit Owners.
- 14.2 Minor Damage. Where a loss or damage occurs within a Unit or Units, or to the Common Elements or to any Unit Or Units and the Common Elements or to the property of the Association, but said loss is less than "major damage" as hereinafter defined, it shall be obligatory upon the Association and the Unit Owner(s) to repair, restore and rebuild the damage caused by said loss. Where such loss or damage is less than "major damage":
- (a) The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of costs of repair and restoration.
  - (b) If the damage or loss involves individual Units, as well as the Common Elements, or if the damage is limited to the Common Elements alone, but is less than \$10,000.00, the insurance proceeds shall be endorsed over to the Association by the Board of Directors, and the Association as hereinbefore provided, shall promptly contract for the repair and restoration of the damage.
  - (c) If the damage or loss involves the property of the Association, individual Units, as well as the Common Elements, or if damage is limited to the Common Elements alone, but is in excess of \$10,000.00, the insurance proceeds shall be disbursed by the Association for the repair and restoration of the property upon the written direction and approval of the Board of Directors of the Association, provided, however, that upon the request of an Institutional Mortgagee, the written approval shall also be required of the Institutional Mortgagee owning and holding the first recorded mortgage encumbering a Unit, so long as it owns and holds any mortgage encumbering a Unit. At such

time as the aforesaid Institutional Mortgagee is not the holder of a mortgage on a Unit, then its right of approval and designation shall pass to the Institutional Mortgagee having the highest dollar indebtedness on Units in the Condominium Property. Said written approval shall not be unreasonably withheld. Should written approval be required, as aforesaid, it shall be said Mortgagee's duty to give written notice thereof to the Association. The Board of Directors may rely upon the certificate of the Association and the aforesaid Institutional Mortgagee, if said Institutional Mortgagee's written approval is required, as to the payee and the amount to be paid from said proceeds. All payees shall deliver paid bills and waivers of mechanic's liens to the Association, and execute any affidavit required by law or by the Association or the aforesaid Institutional Mortgagee, and deliver same to the Association. The foregoing shall be in such form as any of the aforesaid parties may require. In addition to the foregoing, the Institutional Mortgagee whose approval may be required under this section, shall have the right to require the Association to require the general contractor performing the reconstruction to obtain a completion performance and payment bond, in such form and amount, and with a bonding company authorized to do business in the State of Florida, as are acceptable to the said Mortgagee.

- (d) Subject to the foregoing, the Board of Directors of the Association shall have the right and obligation to negotiate and contract for the repair and restoration of the premises.
- (e) If the net proceeds of the insurance are insufficient to pay for the estimated costs of restoration and repair (or for the actual costs thereof if the work has actually been done), the Board of Directors of the Association shall promptly, upon determination of the deficiency, levy a Special Assessment against all Unit Owners in proportion to the Unit Owner's share in the Common Elements, for the portion of the deficiency as is attributable to the cost of restoration of the Common Elements and property of the Association and against the individual Owner for the portion of the deficiency as is attributable to his individual Unit, provided, however, that if the Board of Directors of the Association finds that it cannot determine with reasonable certainty the portion of the deficiency attributable to a specific individual damaged Unit(s), then the Board of Directors of the Association shall levy an Assessment for the total deficiency against all of the Unit Owners in proportion to the Unit Owner's share in the Common Elements, just as though all of said damage had occurred in the Common Elements. Special Assessment funds shall be delivered by the Association to the Board of Directors, and shall be added by said Board to the proceeds available for the repair and restoration of the property.
- (f) In the event the insurance proceeds are sufficient to pay for the cost of restoration and repair, or in the event the insurance proceeds are insufficient but additional funds are raised by Special Assessment within ninety (90) days after the casualty, so that sufficient funds are on hand to fully pay for such restoration and repair, then no mortgagee shall have the right to require the application of insurance proceeds to the payment of its loan, provided, however, that this provision may be waived by the Board of Directors in favor of any Institutional Mortgagee upon request thereof, at any time. To the extent that any insurance proceeds are required to be paid over to such Mortgagee, the Unit Owner shall be obliged to replenish the funds so paid over, and said Unit Owner and his Unit shall be subject to Special Assessment for such sum.

14.3 Major Damage. As used in this Declaration, or any other context dealing with this Condominium, the term "major damage" shall mean loss or damage whereby three-fourths (3/4) or more of the total Unit space in the Condominium is rendered untenable, or loss or damage whereby seventy-five percent (75%) or more of the total amount of casualty insurance coverage becomes payable. Should such "major damage" occur, then:

- (a) The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of repair and restoration thereof.
- (b) Thereupon, a meeting of the Unit Owners shall be called by the Board of Directors of the Association, to be held not later than sixty (60) days after the casualty to determine the wishes of the Unit Owners of this Condominium with reference to the abandonment of the Condominium project, subject to the following:
  - (1) If the net insurance proceeds available for restoration and repair are sufficient to cover the costs thereof, so that no Special Assessment is required, then the Condominium Property shall be restored and repaired unless two-thirds (2/3) of all the Unit Owners entitled and qualified to vote shall vote to abandon the Condominium project, in which case the Condominium Property shall be removed from the provisions of the law by the recording in the public records of Indian River County, Florida, an instrument terminating this Condominium, which said instrument shall further set forth the facts executed by its President and Secretary. The termination of the Condominium shall become effective upon the recording of said instrument, and the Unit Owners shall thereupon become Owners as tenants in common in the property, i.e. the real, personal, tangible and intangible personal property, and any remaining structures of the Condominium and their undivided interests in the Property shall be the same as their undivided interest in the Common Elements of this Condominium prior to its termination, and the mortgages and liens upon Condominium parcels shall become mortgages and liens upon the undivided interest of such tenants in common, with the same priority as existed prior to the termination of the Condominium.
  - (2) If the net insurance proceeds available for restoration and repair are not sufficient to cover the costs thereof, so that a Special Assessment will be required, and if a majority of all the Unit Owners entitled and qualified to vote, vote against such Special Assessment and to abandon the Condominium project, then it shall be so abandoned and the Condominium Property removed from the provisions of the law, and the Condominium terminated, as set forth in the immediately preceding subparagraph (1), and the Unit Owners shall be tenants in common in the property in such undivided interests and all mortgages and liens upon the Condominium parcels shall encumber the undivided interests of such tenants in common, as provided in the immediately preceding subparagraph (1). In the event a majority of the Unit Owners of this Condominium vote in favor of Special Assessments, the Board of Directors of the Association shall immediately levy such Special Assessments, and thereupon the Association shall proceed to negotiate and contract for such repairs and restoration, subject to the provisions of Paragraph 14.2(c) above. The Special Assessment fund

shall be delivered by the Board of Directors to the Association and added by said Board to the proceeds available for the restoration and repair of the property. The proceeds shall be disbursed by the Board for the repair and restoration of the property, as provided in Paragraph 14.2(c) above.

- (3) In the event any dispute shall arise as to whether or not "major damage" has occurred, it is agreed that such finding made by the Board of Directors of the Association shall be binding upon all Unit Owners and mortgagees.

- 14.4 Surplus. It shall be presumed that the first monies distributed in payment of costs of repair and restoration shall be from the insurance proceeds, and if there is a balance in the funds held by the Association after the payment of all costs of the repair and restoration, such balance shall be allocated to the Association reserves in the manner determined by the Board of Directors.
- 14.5 Certificate. The Board of Directors may rely upon a certificate of the Association certifying as to whether or not the damaged property is to be repaired and restored. Upon request the Association shall forthwith deliver such certificate.
- 14.6 Plans and Specifications. Any repair and restoration must be substantially in accordance with the plans and specifications for the original Building, or as the Building was last constructed, or according to the plans approved by the Board of Directors of the Association, which approval shall not be unreasonably withheld. If any material or Substantial change is contemplated, the approval of all Institutional Mortgagees shall also be required.
- 14.7 Association's Power to Compromise Claims. The Board of Directors of the Association is hereby irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a Unit and for each Owner of any other interest in the Condominium Property, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Association and to execute and deliver releases therefore upon payment of claims.
- 14.8 Institutional Mortgagee's Right to Advance Premiums. Should the Association fail to pay such premiums when due, or should the Association fail to comply with other insurance requirements, the Institutional Mortgagee holding the greater dollar volume of Unit mortgages shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance, and to the extent of the money so advanced, said Mortgagee shall be subrogated to the Assessment and lien rights of the Association as against the individual Unit Owners for the payment of such items of Common Expense.

## 15. CONDEMNATION.

- 15.1 Deposit of Awards with Association. The taking of portions of the Condominium Property by the exercise of the power of eminent domain may, in the discretion of the Board of Directors, be deemed to be a casualty, and the awards for that taking may be deemed to be proceeds from insurance on account of the casualty and may be deposited in the manner provided for insurance proceeds. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Association; and in the event of failure to do so, in the discretion of the Board of Directors of the Association, a special charge shall be made against a defaulting Unit

Owner in the amount of his award, or the amount of that award shall be set off against the sums hereafter made payable to that Owner.

- 15.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after condemnation will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty. If the Condominium is terminated after condemnation, the proceeds of the awards and special Assessments will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided with respect to the ownership and distribution of insurance proceeds if the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, the size of the Condominium will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special Assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds after a casualty, or as elsewhere specifically provided herein.
- 15.3 Unit Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable (in the sole opinion and discretion of the Board), the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:
- (a) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be charged against the Owner of the Unit. The Association shall have the right to collect and enforce any Assessment for such costs and charges in the manner provided in accordance in Article 12 of this Declaration for the enforcement of Assessments.
  - (b) Distribution of Surplus. The balance of the award in respect of the Unit, if any, shall be distributed to the Owner of the Unit and to each mortgagee of the Unit, if a mortgagee endorsement has been submitted to the Association, the remittance being made payable jointly to the Owner and such mortgagees in the manner provided in such mortgagee endorsement.
  - (c) Adjustment of Shares in Common Elements. If the floor area of the Unit is reduced by the taking, the allocated percentage in the Common Elements, the Common Expenses and the Common Surplus appurtenant to the Unit shall be reduced by multiplying such allocated percentage by a fraction, the numerator of which shall be the area in square feet of the Unit after the taking and the denominator of which shall be the area in square feet of the Unit before the taking. The shares of all Unit Owners in the Common Elements, Common Expenses and Common Surplus shall be restated as follows:
    - (1) Add the total of all percentages of all Units after reduction as aforesaid (the "Remaining Percentage Balance"); and
    - (2) Divide each percentage for each Unit after reduction as aforesaid by the Remaining Percentage Balance. The result of such division for each Unit shall be the adjusted percentage for such Unit.
- 15.4 Unit Made Uninhabitable. If the taking is of the entire Unit or so reduces the size of a Unit that it cannot be made habitable (in the sale opinion and discretion of the Board).

The award for the taking of the Unit shall be used for the following purposes in the order stated and the following changes shall be made to the Condominium:

- (a) Payment of Award. The awards shall be paid first to any Institutional First Mortgagees who have submitted a mortgagee endorsement to the Association in amounts sufficient to payoff their mortgages in connection with each Unit which is made uninhabitable; second, to the Association for any unpaid Assessments and other charges; and third, jointly to the affected Unit Owners and other mortgagees of their Units who have submitted a mortgagee endorsement to the Association.
- (b) Addition to Common Elements. The remaining portion of the Unit, if any, shall become part of the Common Elements and shall be placed in a condition allowing, to the extent possible, for use by all of the Unit Owners in the manner approved by the Board of Directors of the Association; provided that if the cost of the work therefore shall exceed the balance of the fund from the award for the taking, such work shall be approved in the manner elsewhere required in Article 8 hereof.
- (c) Adjustment of Shares. The shares in the Common Elements, Common Expenses and Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the shares in the Common Elements, Common Expenses and Common Surplus among the reduced number of Units. This shall be implemented by restating the shares of continuing Unit Owners as follows:
  - (1) Add the total of all percentages of all Units of continuing Owners prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof (the "Percentage Balance"); and
  - (2) Divide the percentage of each Unit of a continuing Owner prior to this adjustment, but after any adjustments made necessary by Section 15.4(c) hereof, by the Percentage Balance. The result of such division for each Unit shall be the adjusted percentage for such Unit.

15.5 Taking of Common Elements. Awards for the taking of Common Elements shall be used to render the remaining portion of the Common Elements usable in the manner approved by the Board of Directors of the Association; provided, that if the cost of such work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required by Section 8 hereof. The balance of the awards for the taking of Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Common Elements after adjustments to these shares are made pursuant hereto by reason of the taking or applied by the Association to other Assessments, in the discretion of the Board. If the Board determines to distribute the surplus and there is a mortgage on a Unit, the distribution shall be paid jointly to the Owner and the mortgagees of the Unit who have submitted a mortgagee endorsement to the Association.

15.6 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and share in the Common Expenses and Common Surplus that are affected by the taking shall be evidenced by an amendment to this Declaration of Condominium to be approved by, and executed upon the direction of, a majority of the Board.

## 16. OCCUPANCY AND USE RESTRICTIONS.

The property shall be used only for residential and related purposes as may more particularly be set forth in this Declaration and Amendments thereto. The Association, acting through the Board of Directors, shall have the power to enforce the use restrictions that follow and such other restrictions that the Board of Directors of the Association adopt from time to time that compliment and are consistent with said restrictions. All provisions of this Declaration and of any Rules and Regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any unit.

The Association, acting through its Board of Directors, shall have authority to make and to enforce Rules and Regulations, standards and restrictions governing the use of Units and Common Elements, in addition to those contained herein, and to impose reasonable user fees for facilities, including, but not limited to the vehicle storage areas, swimming pool, and parking facilities, if any. Such Rules and Regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled or modified at a regular or Special Meeting of the Association by Voting Members representing a majority of the Members or by the Board of Directors.

- 16.1 Occupancy of Units. Each unit shall be used as a single-family residence only and occupancy shall be limited to the limitations imposed by law with generally no more than two (2) adult persons per bedroom shall be allowed to permanently occupy in a Unit. The use of a portion of a Unit as an office by an Owner or his tenant shall be allowed if such use does not create regular customer, client or employee traffic, a further set forth in this Article 16 below. Each Owner or Lessee, as applicable, shall notify the Association of any periods of time during which the Unit becomes unoccupied. As used only in this section, the term "unoccupied" is defined to mean any intended absence of all permanent occupants of the Unit for a period in excess of fourteen (14) days. Each Owner or Lessee, as applicable, shall also notify the Association upon their return. In the event a Unit is left "unoccupied", said Owner or resident shall comply with Section 7.5 of this Declaration and such additional Rules and Regulations promulgated by the Association's Board of Directors from time to time.
- 16.2 Signs. No "For Sale" or "For Rent" signs or other displays of advertising shall be erected or maintained on any part of the Common Elements, Limited Common Elements, or Units, excepting for spaces specifically provided for such signs as may be designated by the Association. The Association or its agents shall have the right to erect signs on the Condominium Property only for the purpose of managing the Association.
- 16.3 Vehicle and Parking Restrictions. Each Unit shall have one (1) designated covered parking facility appurtenant to the Unit as described in Section 3.4. Owners and occupants shall park only in the covered parking facility appurtenant to their Unit or appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable Rules and Regulations as the Association may adopt. The Board of Directors has the authority but not the obligation to assign or provide additional parking spaces, beyond those designated for Units, on a first-come, first-served basis within the reasonable discretion of the Board. The Board of Directors shall adopt reasonable Rules and Regulations regarding parking which may include charging a fee for parking identification decals and/or requiring the vehicle be registered with identification to park on the Condominium Property.

The Association shall have the absolute discretion to determine that any vehicle is not in conformance with the overall appearance of the Condominium Property or with the provisions herein contained. The Association may grant exception to the above restrictions for fair housing purposes. The Association may adopt reasonable Rules and Regulations in regard to this Section which may be changed from time to time as the Board deems necessary.

No Commercial Vehicle shall be permitted to be parked within the Condominium Property unless such commercial vehicle is temporarily present and necessary in the actual construction, maintenance, or repair of a Unit or other improvements in the Condominium Property.

No Commercial Vehicles (except they may be parked briefly for delivery and service purposes only), limousines, recreational vehicles, and/or trailers including, but not limited to, boat trailers, horse trailers, and trailers of every other type, kind or description, or camper, may be kept within Condominium Property. Other prohibited vehicles or items include: trucks, pickup trucks, agriculture vehicles; go carts, golf carts, wave runners, jet skis, dually pickup, monster trucks, dune buggies; swamp buggies and all terrain and off-road vehicles; any trailer or other device transportable by vehicular towing; semis or tractor trailers; buses; limousines; travel trailers; commercial vehicles as defined above in this document; motorcycle delivery wagons; campers; recreational vehicles; mobile units or mobile houses; boat and boat trailers; motor vehicles that are eyesore, including and not limited to motor vehicles not having any bodies whatsoever, or incomplete bodies; passenger automobiles that have been converted to a different type of motor vehicle by replacing the original body or by modifying the exterior of a vehicle; vehicles that are noisy, unsightly or "junkers," or which have flat or missing tires. No vehicle shall be used as a domicile or residence, either temporary or permanent. Commercial Vehicles shall include those vehicles as defined in Section 320.01(15)(a), *Florida Statutes*, as "for-hire" vehicles and/or decorated with commercial lettering or advertising. Recreational vehicles are prohibited and shall include those vehicles as defined in Section 320.01(1)(b), *Florida Statutes*. Notwithstanding defined in Section 320.01(3), *Florida Statutes*; trailers shall include those vehicles as defined in Section 320.01(4), *Florida Statutes*, and mobile units shall include those vehicles as defined in Section 320.01(3), *Florida Statutes*. No unlicensed driver shall operate any vehicle on the Condominium Property.

Notwithstanding the foregoing, Residents may park a pickup truck in the covered carport parking space assigned to a Unit so long as the entire pickup truck fits within the covered parking space assigned to such Unit, the pickup truck is not a Commercial Vehicle, and the pickup truck is equal to or less than two hundred thirty-four (234) inches in length and eighty-one (81) inches in width. For any Owner who drives a motor vehicle issued by the County or other governmental entity (i.e., police cars), such motor vehicle shall not be deemed to be a Commercial Vehicle and may be parked in the space assigned to the Unit or Guest parking space as applicable.

- (a) Unsightly Vehicles. Owners and occupants of Units shall not park, store or leave or permit parking or storing of any vehicle, which is in rusted, wrecked, junked, partially dismantled, inoperative or abandoned condition on the Condominium Property.
- (b) Repairs and Maintenance of Vehicles. No vehicle which cannot operate on its own power shall remain on the Condominium Property for more than twelve (12) hours. No repair or maintenance, except emergency repair, of vehicles shall be made within Condominium. No vehicles shall be stored on blocks. No

tarpaulin covers on vehicles shall be permitted anywhere within public view. Washing and/or waxing of a vehicle shall be permitted.

- (c) Parking in Designated Parking Spaces. Parking is allowed only inside parking spaces designated for parking of vehicles.
- (d) Parking or Storing of Unused Vehicles. Vehicles that are not regularly used by Owner for travel or trips on regular basis may not be stored or parked on the Condominium Property. The intent of this restriction is to disallow Owners from storing vehicles in the parking lot or spaces that are not intended as a primary vehicle or a secondary vehicle that is driven on a regular basis as opposed to the vehicle being stored by the Owner.
- (e) Additional Regulations and Towing/Booting. In the event any vehicle is improperly parked in the Association in violation of this Declaration or the Rules and Regulations, the Association (or at the Association's direction a towing company) may enter the Condominium Property and remove the vehicle and assess all costs incurred by the Association for such removal against the Unit and the Owner responsible for the parking of the vehicle on the Association, and such assessment shall become a lien on the Unit. The Association and its officers, directors, agents, and employees shall not be liable to the vehicle's Owner or any other person or entity or any property Owner for trespass, conversion, property damage, other damage or cost or expense, nor guilty of any criminal act, by reason of such towing. Once the notice is posted on the vehicle or personally served to the Owner of the property upon which the vehicle is parked, neither its removal, nor failure of the Owner to receive such notice for any other reason, shall be grounds for relief of any kind against the Association. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting. For purposes of this paragraph, a "vehicle" shall also mean vans, campers, recreational vehicles, mobile units, commercial vehicles, and trailers. For purposes of this paragraph and any Rules and Regulations adopted by the Board, "towing" shall also mean "booting".

16.4 Guest Restrictions. A Guest may occupy a Unit in the absence of the Owner or Association approved tenant for a period of not more than fourteen (14) consecutive days. If an Owner or tenant allows a Guest to occupy their Unit in the absence of the Owner or tenant, then at least seventy-two (72) hours prior to the Guest's arrival, the Association must be notified in writing. Such notification must include the name of the Guest and the arrival and departure dates. "Occupy" in this Article 16 means use of the Unit for any duration. A Guest which occupies a Unit while the Owner or tenant is present may not remain on the premises for more than thirty (30) consecutive days in a year without the express approval of the Board, who shall have the right to screen said Guest as if the Guest is a tenant, and who shall further have the right to deny a Guest on the same grounds as a tenant. The term "absence" as used herein shall mean where the Owner or Association approved tenant is not present overnight along with the Guest or person in question. A Guest occupying a Unit in the absence of the Owner or tenant should park in the designated covered parking facility appurtenant to the Unit.

16.5 Animals and Pets.

- (a) Limitation on Type of Pets Owned. No animals, snakes, livestock, agricultural animals, exotic animals, poultry, etc. of any kind may be raised, bred, harbored, or

permitted on or in any Unit, with the exception of no more than one (1) dog or one (1) cat, or other household pet such as: fish or very small birds provided that they do not become a nuisance or annoyance, subject to Rules and Regulations promulgated by the Board of Directors. Pets are permitted to be harbored with the permission of the Board of Directors. Such permission in one instance shall not be deemed blanket permission in any other instance and any such permission may be revoked at any time at the sole discretion of the Board of Directors who may, in their discretion, promulgate such Rules and Regulations from time to time concerning the harboring of pets. Breeding or raising of any animal(s) or pet(s) including ordinary household pets for any commercial purposes whatsoever within the community is prohibited.

(b) Animals in Public Areas. In no event shall pets or animals be permitted in any of the public portions of Condominium unless on a leash or enclosed carrier and under positive control. However, in no event shall pets be allowed in the pool area, clubhouse, tennis courts, and the parking areas.

(c) Nuisance Animals. If any animal becomes a nuisance to other residents by barking or otherwise, the Unit Owner must cause the problem to be corrected within forty-eight (48) hours; and if not corrected within forty-eight (48) hours, the Unit Owner, upon written notice from the Association, will be required to remove their animal from the Condominium Property. The resident must assure that pets do not create a nuisance or unreasonable disturbances

(d) Additional Regulations for Harboring Pets. Keeping of a dog or other domestic pet at the Condominium Property is not the right of a resident but is a conditional license, which is subject to termination, at any time by the Board of Directors upon finding that a dog or other pet is vicious or is annoying to other residents or has in any way become a nuisance. Animal excrement shall immediately be removed and deposited in a properly enclosed trash receptacle at the Owner's Unit or deposited in a waste matter receptacle on Condominium Property designated for such purpose. Storm drains and sewers are not to be used as waste matter receptacles. Failure to comply with this condition shall lead to proceedings to remove the animal from the Condominium Property. No pet shall be tied up outside of a Unit or confined in any screened or enclosed porch or patio, unless someone is present in the Unit. Barking dogs shall be removed from the patio or enclosure immediately. No pet(s) shall be left unattended in a vehicle or outside a Unit or on the Condominium Property.

(e) Limitation on Size of Pets. In addition, no pet brought into the Condominium shall weigh more than fifty (50) pounds at maturity unless specifically grandfathered in by prior amendments.

(f) Assistance Animals. Pursuant to all applicable Federal and State laws, an Owner or resident may make a request to the Association for a reasonable accommodation to the foregoing animal restrictions, in order to maintain an emotional support/service animal in a Unit, provided that the requesting Owner or resident submits documentation from a qualified health professional that demonstrates sufficient connection between how the identified disability of the Owner/residents impairs a major life activity, and the specific manner in which the animal will allow the Owner/resident an equal opportunity to use and enjoy his or her Unit and assist in treating the disability.

(g) Liability. Residents are responsible for any property damage, personal injury or disturbance which their pet may cause or inflict. Each resident who keeps a pet agrees to indemnify the Association and hold the Association harmless against any loss or

liability of any kind whatsoever arising from or growing out of having any animal in the community.

- 16.6 Wildlife. Occupants may not tame, acquire, keep, or confine any form of wildlife including feral cats. No garden ponds or birdbaths shall be permitted. Owners may not provide any habitats for wildlife at their Units including native vegetation, bird feeders, nesting boxes, shelter boxes, garden ponds, and bird baths. Feeding wildlife is prohibited. Further, wildlife may not be indirectly fed by leaving food out for companion animals.
- 16.7 Nuisances, Ordinances and Laws. No Owner, Occupant or Guest shall use any of the Condominium Property or Units, or permit same to be used, in any manner which is unreasonably disturbing, detrimental or a nuisance to the Owner(s), Occupant(s) and Guest(s) of other Unit(s), or which would not be consistent with the maintenance of the highest standards for a first class Residential development, nor permit the Condominium Property or Units to be used in a disorderly or unlawful way, nor which will produce an insurance risk for the Association or other Owners or Occupants. No portion of the Units or Common Elements shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious or unsightly to the eye, nor shall any substance, thing, or material be kept on any portion of the Units or the Common Elements appurtenant thereto that will emit foul or obnoxious odors or cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the Occupants of the surrounding properties. The Board shall have the right to determine if any equipment, fixture, improvement, materials or activity producing such noise or odor constitutes a nuisance. No Unit Owner/Occupant shall play (or permit to be played, in his Unit or in the Limited Common Elements or Common Elements) any musical instrument, television, radio or the like in a way that unreasonably disturbs or annoys other Unit Owners or Occupants.
- 16.8 Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Condominium Property. The personal property of any resident, other than permitted motor vehicles under Section 16.3, outdoor furniture on lanais and patios, shall be stored inside the Unit and may not be visible to surrounding Unit Owners or from the Common Elements. Electric barbecue grills are permitted on the Condominium Property. All other types of grills, including gas barbecue grills and smokers, are prohibited.
- 16.9 Antennae. Installation, maintenance, and use of all antennae shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the Federal Communications Commission ("FCC"). No television or other outdoor antenna system or appendage, protrusion or attachment or any other sort of facility shall be erected, whether temporarily or permanently, to the exterior of a property except those common to and part of the construction/development of the property and/or unless prior written approval has been obtained from the Association. No radio or television signals, nor any other form of electromagnetic radiation, shall be permitted to originate from any Unit which may unreasonably interfere with the reception of television or radio signals within the Property, provided, however, that the Association shall not be prohibited from installing equipment necessary for antenna security, cable television, mobile radio or other similar systems within the Property. All antennae not covered by the FCC rules are prohibited.

- 16.10 Clotheslines, Garbage Cans, Tanks, Etc. Clotheslines are prohibited on the Common Elements or Association Property. No refrigerators shall be placed on lanais or patios. No Unit Owner may have a fish tank over ten (10) gallons in a second story Unit. All rubbish, trash, and garbage shall be regularly removed from the Unit and placed outside in the appropriate area for pick up.
- 16.11 Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association.
- 16.12 Firearms. The use of firearms within the Condominium Property is prohibited. The Term "firearms" includes BB guns, pellet guns, and other firearms of all types, regardless of size.
- 16.13 Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioners may be installed in any Unit unless a Board declared emergency exists and in that event, after the emergency is lifted, the temporary A/C unit must be removed immediately.
- 16.14 Window Treatments. Window treatments may only consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Unit or when permanent window treatments are being cleaned or repaired.
- 16.15 Lighting and Holiday Decorations. Seasonal holiday lights must be removed fourteen (14) days from the date of the given holiday. Holiday decorations may not be placed on the exterior part of Condominium Buildings except the entry door of the Unit. Decorations shall not emit any sounds. Holiday lights shall not cause a nuisance to other Unit Owners, as determined by the Association. The Association may establish additional standards for holiday lights as part of the Association Rules and Regulations. No spotlights, exterior pole or similar type of high intensity lighting shall be placed on the Common Elements and no exterior lighting may be installed without prior approval of the Association. Holiday lights must be turned off by 11:00 p.m. and may be turned back on after day light.
- 16.16 Control of Contractors. Except for direct services which may be offered to Owners (and then only according to the Rules and Regulations relating thereto as adopted from time to time), no person other than an Association officer or representative of the management company retained by the Association shall direct, supervise, or in any manner attempt to assert control over any contractor of the Association.
- 16.17 Hazardous Materials. No substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous or toxic substance, no flammable, combustible, or explosive fuel, fluid, chemical, or other similar term, including, without limitation, asbestos containing materials and petroleum products, by any federal, state or local environmental health safety or similar laws, statutes, rules, regulations or ordinances presently in effect or which may be promulgated in the future, shall be used or stored at the Condominium Property, including the Common Elements, Limited Common Elements or in the Unit, except in *de minimus* quantities used in the ordinary course of owning and maintaining the Unit, and in strict compliance with all applicable laws.

- 16.18 Hurricane Season Preparedness and Hurricane Shutters. Each Unit Owner shall be responsible to prepare his or her Unit during hurricane season (June 1 to November 30). The Board of Directors shall have the authority to adopt reasonable Rules and Regulations regarding the preparation of Units during hurricane season, including steps Unit Owners should take when a storm is approaching the coast of Florida. Residents who plan to be absent from their Unit during hurricane season shall prepare or arrange for preparation of their Unit, including the closing/installing of hurricane shutters/slats, when hurricane warnings are issued, and the removing of all moveable objects from the area outside of the Unit and shut off all appliances and other components of the Unit or servicing the Unit that could result in damage to another Unit, such as water servicing the Unit, and such other components as the Association may determine in its sound business judgment and prior experience. Further, the resident shall designate a responsible firm or individual to open/remove the hurricane shutters/slats and to arrange for the repair to the Unit, as required, should there be hurricane damage. Any hurricane shutters or other protective devices visible from outside a Unit shall be of a type as approved in writing by the Association. Panel, accordion and roll-up style hurricane shutters may not be left closed during hurricane season (nor at any other time). Any such approved hurricane shutters may be installed or closed up to forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed or opened within seventy-two (72) hours after the end of a hurricane watch or warning or as the Board may determine otherwise; inclusive of any removable tracks. No plywood is permitted. Except as the Board may otherwise decide, shutters may not be closed at any time other than a storm event. Any approval by the Association shall not be deemed an endorsement of the effectiveness of hurricane shutters.
- 16.19 Noise. No Owner, resident or contractor at any time shall make or permit any disturbing noises in or about the Units or permit any conduct by his family, guests, employees or others which will interfere with the rights, comforts, or conveniences of other Occupants. In addition, no Occupant shall play or permit to be operated, a musical instrument, television, radio, sound system or other equipment in such a manner as to disturb or annoy other Occupants. The Board of Directors may adopt Rules and Regulations governing the permitted timeframe for noisy work within Units, as well as, the hours during which contractors may access the Condominium Property to perform work. No one shall operate, play or cause to be operated or played on the Property any radio, television, stereo system, sound amplifier of any kind, appliance, lawnmower, machine, musical instrument, equipment or motor of any kind which makes any music, noise or vibration, in such a manner as to be annoyance or nuisance to other Occupants. Noise must be kept at an acceptable level. An acceptable level shall mean that noise from the above listed sources should not be heard beyond the boundaries of the Unit from which the noise is generated. Tile or wood floors cannot be installed or changed without the Association's approval as special sound insulation barriers are required. For sound abatement, the living areas of second-floor Condominium Units must either be carpeted or, if hard flooring is installed, feature a Board-approved soundproof underlayment that ensures optimal sound absorption. The Board of Directors may promulgate additional Rules and Regulations regarding soundproofing, including requirements for padding or carpeting, in the event of noise-related disputes.
- 16.20 Screened Enclosures. No screened enclosures shall be permitted without the prior written approval of the Association's prior written approval.
- 16.21 Solicitation. No commercial solicitations of any kind shall be permitted on any portion of the Property. No email solicitations, door-to-door sales or solicitations, including fundraisers, shall be conducted on the Property without prior approval from the

Association. Advertising, brochures and flyers for commercial solicitations may not be hand delivered, including to mailboxes, but they may be mailed to residents. Violators shall be reported to the Association Property Manager.

- 16.22 Sports Equipment. No recreational, playground or sports equipment including but not limited to basketball hoops and poles, slides, kiddie pools, soccer nets, tether poles, jungle gyms, hammocks or any inflatable games may be installed or placed within or about any portion of the Condominium Property.
- 16.23 Trash and Garbage. Trash collection and disposal procedures established by the Association shall be observed. It is possible the Association may provide for garbage pick-up, the cost of which shall be Operating Costs.
- 16.24 Drones. The laws regulating "Unmanned Aircraft Systems" (more commonly referred to as "Drones") is still evolving. The flying of Drones over the Condominium Property presents certain hazards and safety concerns to the residents of the Association. Accordingly, the Board of Directors of the Association is hereby granted the authority to adopt such reasonable Rules and Regulations concerning a resident's operation of Drones on the Condominium Property, which may include prohibiting their operation within the Condominium to the extent permissible by applicable law, whether by residents or non-residents, as the case may be. Such Rules and Regulations shall be enforceable in accordance with this Declaration and applicable law, without the need to further amend this provision. The Association may hire licensed professionals to use drones on the Condominium Property in the performance of the Association's duties under the Governing Documents.
- 16.25 Home Business Use. The use of a Unit as a public lodging establishment or as part of a fractional ownership or vacation club program shall be deemed a business or commercial use that is prohibited. This restriction shall not be construed to prohibit "limited home business uses". Only "limited home business uses" as defined by this paragraph are permitted. The term, "limited home business uses" shall mean such uses that are not apparent or detectable by sight, sound, or smell from outside the Unit. Limited home business uses: (a) do not involve regular visits of customers or clients to the Unit or door-to-door solicitation of residents of the Condominium; (b) are consistent with the residential character of the Condominium; and (c) do not constitute a nuisance (as elsewhere defined in this Section 16), or a hazardous or offensive use, or threaten the use and enjoyment of other Units by the Owners thereof, or the security or safety of others within the Condominium, or otherwise violate any use restrictions contained herein. This provision is intended to be and shall be retroactive to and effective from the date of recording of the original Amended Declaration. The Board may adopt such additional Rules and Regulations regarding the operation of limited home business uses consistent with this paragraph.
- 16.26 Limitations on Ownership. As of the date of recording this Declaration, no Owner shall be entitled to own, purchase, or otherwise acquire or hold and ownership interest in or title to, more than two (2) Units in the Association. Such restriction shall apply prospectively to future purchasers and regardless of whether the Units are owned in such Owner's individual capacity or in the name of a trust. No ownership or possessory interest in a Unit may be conveyed, leased or otherwise transferred to a corporation, limited liability company, partnership or other legal entity of any kind. This restriction against corporate ownership shall not apply to Owners of Units as of the date of recording this Declaration and shall apply prospectively to all future purchasers. This restriction is also not applicable to the Units which are (1) acquired by the Association, (2) transferred into a bona-fide trust for estate planning purposes, as

further provided in this Section, or (3) acquired by lenders through foreclosure of a mortgage or other lien or by deed in lieu of foreclosure; however, any person taking occupancy of a Unit owned by such permitted entity shall be subject to the leasing restrictions in Article 17. A Unit may be transferred to a trust so long as the transfer is to the trustee(s) of the trust, the trustee(s) are part of a single-family household who have been approved by the Association to occupy the Unit, and the trust was formed for bona-fide estate planning purposes. Under no circumstances, however, may a Unit be transferred to a land trust created under the laws of any jurisdiction. Title to a Unit may not be held in the name of more than two (2) natural persons who are part of a single family. A Unit may be subject to a life estate, either by operation of law or by a voluntary conveyance approved pursuant to Article 17. In that event, the life tenant shall be the only Association member from such Unit, and occupancy of the Unit shall be as if the life tenant was the only Owner. Upon termination of the life estate, the holders of the remainder interest in the Unit shall have no occupancy rights unless separately approved by the Association in accordance with Article 17. The life tenant shall be jointly and severally liable with the holders of the remainder interest in the Unit for all assessments and charges against the Unit. Any consent or approval required of association members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

- 17. CONVEYANCES, SALES, TRANSFERS, RENTALS, LEASES AND LICENSES.** In order to provide for congenial occupancy of the Condominium Property, inhibiting transiency, preventing a motel-like atmosphere, and facilitating the development of a stable, quiet community, and for the protection of the values of the Units and enhancing peace of mind for all residents, the sale, leasing, rental, and transfer of Units by any Owner shall be subject to the provisions of this Article 17. It is the intent of Article 17 to, among other things, impose an affirmative duty on Owners to fully inform the Association of any proposed changes in ownership or occupancy of a Unit for the purpose of facilitating the management of the Condominium, maintain the accuracy of the Association's membership records, and to further the general welfare and safety of the community at large. No purchase, lease, gift or other transfer of possession or occupancy of a Unit shall commence without the Owner of the Unit first obtaining written approval from the Association, in accordance with the Declaration. Furthermore, notwithstanding anything to the contrary in this Declaration, no Owner may utilize their Unit as "vacation rental housing" or as a "transient public lodging establishment" as defined by Florida law. No Owner of a Unit may license their Unit for the purpose of occupancy. The intent of this paragraph is to require an actual lease, and not a license, where the term is a minimum of sixty (60) days in accordance with Section 17.4(b), as it is amended from time to time. No Owner shall list their Unit on any website with such companies as Airbnb, VRBO, or similar enterprise that advertise vacation rental housing or transient public lodging establishments.

**17.1 Transfers Subject To Approval.** The following transfers shall be subject to prior written approval of the Board of Directors and any transfer undertaken without prior written approval of the Board of Directors shall be void:

- (a) All sales of units.
- (b) All transfers by lease.
- (c) All transfers by gift.

- (d) Any other transfer of possession or occupancy of a Unit, including by virtue of inheritance or devise.
- (e) All transfers subject to approval shall require, as a condition of approval, the payment to the Association of a transfer fee not to exceed the maximum amount permitted by the Act.
- (f) All transfers by lease may be conditioned upon the posting of a security deposit with the Association not to exceed the maximum amount permitted by the Act.

**Exceptions:** This Article 17 does not apply to any party who acquires title to a Unit by devise or inheritance, provided they do not occupy the Unit, or to a first mortgagee or other bona fide purchaser at a judicial sale who acquires title pursuant to a foreclosure action brought by a First Mortgagee, or at a public sale conducted by the Indian River County Tax Collector resulting from the failure to pay real property taxes. Notwithstanding the above, any party acquiring title to a Unit under this paragraph shall provide written notice to the Association of the designated primary occupants of the Unit and such occupants shall be subject to the approval of the Association. Additionally, the party acquiring title under this paragraph shall provide proof of ownership to the Association such as a Personal Representative's Deed in the event of a transfer by devise. Further, notwithstanding anything to the contrary contained herein or elsewhere in this Declaration, all occupants not approved as part of an existing lease or the conveyance of the Unit to the present Owner must be approved as provided in this Article 17 regardless of whether or not the new occupant shall be added to the lease or obtain an ownership interest in the Unit.

17.2 **Notices to Association.** Prior to approving any transfer subject to approval hereunder, the Association shall be entitled to written notice of the transferor's intent to make the transfer with a copy of the documentation evidencing the intended transfer, including, but not limited to, a copy of the contract for sale in the case of a sale, a copy of the lease in the case of a lease, and a copy of any other documentation pertaining to a proposed transfer subject to approval hereunder which the Association may reasonably require, completed applications on forms prescribed by the Association, a personal interview with the proposed transferee(s) and any other intended occupants of the Unit, and such other and further information about the intended transferees or occupants as the Association may reasonably require.

(a) **Transfer Fee.** The Board of Directors is empowered to charge a fee in connection with and as a condition for the approvals set forth in this Article 17 in accordance with applicable law and in the highest amount permitted by the Act. So long as and only so long as prohibited by applicable law, at the particular time, there shall be no transfer fee in connection with the renewal of a lease with the same lessee, if the renewed lease term immediately follows the expiration of the previous term. The Association will perform annual background checks on all tenants 18 years of age or older. Notice of intent to renew a lease shall be given in the same manner as a new lease.

(b) **Damage Deposit.** The Association may charge the Owner of a Unit a refundable deposit in the amount to be determined by the Board of Directors, which shall not to exceed one month's rent or the amount permitted by law (the "Escrow Deposit"). This deposit will be held in escrow in a non-interest bearing account and may be used by the Association to repair or replace any damage to any property of, or to be maintained by, the Association, resulting from the acts or omission of the lessee(s) or occupant(s) of that Unit, or their family members, guests or invitees, or towards the cost of eviction pursuant to this Declaration.

17.3 Association's Election. Within thirty (30) days of receipt of the last of the information required pursuant to Section 17.2 above, the Association must either approve or disapprove the transfer. Failure on the part of the Association to respond within said thirty (30) day period shall constitute automatic approval for the proposed transfer.

(a) Approval. In the event the Association approves a lease, the Association shall notify the transferor and transferee of its approval in writing. In the event the Association approves any other transfers subject to approval hereunder, the Association shall deliver to the transferor or the transferor's designee an executed certificate of approval, approving the transfer, executed by an authorized representative of the Association.

(b) Disapproval of Transfer of Title. In the event the Board of Directors disapproves a proposed sale or other transfer of title, unless good cause exists, as defined below, the Association must, within thirty (30) days of receipt of the last of the information provided pursuant to Section 17.2 hereof, provide the Owner with an executed contract from the Association or another purchaser acceptable to the Association, which contract must provide for the purchase of the Unit on the same terms as were set forth in the original proposed contract for sale, which contract must provide for a closing date within thirty (30) days from the date it is delivered to the Owner by the Association. If the conveyance or transfer was a gift, unless good cause exists, as defined below, the purchase price shall be determined by an appraiser selected by and at the expense of the substitute purchaser. If the Owner does not agree with the appraisal, the Owner may select and pay for another appraisal and the purchase price shall be the average of the two appraisals. If the Association does not respond to the application within thirty (30) days, as set forth above, or the substitute purchaser provided by the Association does not close within thirty (30) days, as set forth above, the original transaction shall be deemed approved and the Unit Owner may proceed to closing and shall be entitled to a Certificate of Approval as described in Paragraph (a) of this Section 17.3. If good cause exists for the Association to disapprove a proposed sale, conveyance or transfer by gift, the Association shall not be obligated to purchase or provide a substitute purchaser for the Unit. "Good cause" shall be defined to include the following:

- (1) The applicant fails to qualify for membership in the Association, including, but not limited to, those applicants who fail to qualify for membership because the use, occupancy and/or ownership of the Unit and/or the Common Elements by the applicant, as discovered in the screening process or Association's investigation, will violate the restrictions on use, occupancy or ownership set forth in this Declaration or the Rules and Regulations; or
- (2) The person seeking approval, or any other proposed occupant of the Unit, has been registered as a sexual offender or sexual predator, or been convicted of a felony involving or related to: (i) violence to persons or property, including criminal sexual conduct; (ii) dishonesty or moral turpitude; (iii) the manufacture, importation, possession, use or distribution of a "controlled substance" as that term is defined by the United States Controlled Substances Act (CSA), as amended from time to time; (iv) or has been convicted of any other felony involving violence to person or property, or a felony demonstrating moral turpitude. For purposes of this paragraph, "conviction" shall mean the result of a

criminal trial or legal proceeding (including a plea), which results in a judgment or sentence that the individual is guilty of committing a felony under any state's or foreign jurisdiction's penal laws. In evaluating a conviction under this subparagraph, the Association will consider multiple factors including the nature, severity, and the amount of time that has passed since the criminal conviction(s) occurred so as to serve the Association's legitimate and non-discriminatory interests in protecting the health, safety and welfare of the residents of the Association and to be in compliance with state and federal fair housing laws. If a person is a registered sex offender or sexual predator or has been convicted of a felony involving violence to persons or property including criminal sexual conduct, or convicted of the illegal manufacturing or distribution of a controlled substance, then no durational limitation will apply to the Association's review of the applicant; or

- (3) For transfers by sale, the person seeking approval intends to purchase the Unit without paying at least twenty percent (20%) of the purchase price; excluding closing costs, in cash or in some form that would result in a first mortgage secured by the Unit with a loan to value ratio (based upon the bona fide sale price) not in excess of eighty percent (80%) (this restriction shall not apply to individuals who are qualified for financing through the Federal Housing Authority or the U.S. Department of Veterans Affairs loan programs); or
- (4) The applicant takes possession of the Unit prior to approval by the Association as provided for herein; or
- (5) The person seeking approval, during a previous occupancy of a Unit, violated the Declaration and/or the Rules and Regulations of the Association; or
- (6) The person seeking approval failed to provide any requested or required information, fees, deposit(s) or appearance deemed necessary to perform an interview in order to process the application in a timely manner; fails to sign the uniform lease or lease addendum, or otherwise fails to comply with the Governing Documents; or makes a material misrepresentation on any of his application forms; or
- (7) The Unit Owner is delinquent in the payment of any monetary obligation to the Association imposed pursuant to the Governing Documents or applicable law; or the Unit is in violation of any provision of this Declaration or the Rules and Regulations which remains uncured at the time the Association is required to approve or disapprove the application; provided however, the Association may grant approval of the proposed transfer subject to payment in full of all outstanding amounts, or correction of any outstanding violation(s), as the case may be, as a condition of the approval;

#### 17.4 Lease Restrictions.

- (a) No portion of a Unit (other than an entire Unit) may be rented. All leases of Units shall be in writing. A Unit shall not be leased or rented without the prior written approval of the Association, which approval shall not be unreasonably withheld. No Unit Owner

may lease his or her Unit more than six (6) times in a twelve (12) month period or for a period of less than sixty (60) consecutive days, measured from the commencement of the lease preceding the most recent prior lease.

- (b) The lessee of a Unit must be a natural person and cannot be an artificial entity such as a corporation, partnership, limited liability company, trust, etc. Every lease shall be subordinate to any lien filed by the Association whether before or after such lease was entered. No rooms may be rented, and no transient tenants or occupants shall be permitted to occupy a Unit for a duration less than provided for herein. No Unit may be listed or occupied pursuant to any license, short term occupancy agreement, vacation, swap, or other similar arrangements through AirBnB, VRBO, or similar enterprise. Regardless of the actual arrangement between the Unit Owner and the occupant, a Unit shall be considered leased any time it is occupied by a person who is not the Owner, an approved family member of the Owner, or a Guest of the Owner. The Association shall have the right to require a substantially uniform form of lease be used or uniform lease addendum be used by all Unit Owners. The lease shall include a provision granting the Association authority and standing to evict any lessee of a Unit when the tenant is in breach or violation of the Governing Documents of the Association, including this Declaration or the Rules and Regulations of the Association. In the event the Association approves a rental or lease, such approval of a lease or rental shall not release the Unit Owner from any obligation under this Declaration, and the tenant shall have the right to use the Common Elements to the exclusion of the Unit Owner unless the tenant waives such rights in writing. Regardless of whether or not expressed in the applicable lease, if any, a Unit Owner shall be jointly and severally liable with his, hers or their tenants to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant or for the acts and omissions of the tenant(s) or occupant(s) (whether or not subject to a lease) which constitute a violation of, or non-compliance with, the provisions of this Declaration and of any and all Rules and Regulations of the Association. All tenants shall comply with and be subject to the provisions of this Declaration, the Bylaws, and the Act and the provisions of same shall be deemed expressly incorporated into any lease of a Unit. Subleases are prohibited. When a Unit is leased, a tenant shall have all use rights in Association Property and those Common Elements otherwise readily available for use generally by Unit Owners, and the Owner of the leased Unit shall not have such rights, except as a guest, unless such rights are waived in writing by the tenant. Nothing herein shall interfere with the access rights of the Unit Owner as a landlord, pursuant to Chapter 83, Florida Statutes. Dual usage by a Unit Owner and a tenant of Association Property and Common Elements is prohibited.
- (c) Any lease of a Unit that has not been approved by the Association may, at the option of the Association, be treated as a nullity, and the Board shall have the power to evict the tenant pursuant to Chapter 83, Florida Statutes, and other occupants without securing consent for such eviction from the Unit Owner. The Unit Owner, however, shall be liable for all Legal Fees incurred by the Association related to such eviction, including prosecuting the eviction action. The Unit Owner need not be named as a party to the eviction proceeding to be liable for any such Legal Fees. If an approved tenant and all of the family members who are approved to reside in the leased Unit are all absent then, no other person may occupy a leased Unit. The Association may also impose additional conditions on lease approval and rules for lessees that are stricter than those that apply to Owners, including, but not limited to, the number of vehicles that lessees and their visitors and guests may park on the Condominium Property.

The Association must approve or disapprove a lease within thirty (30) days of receipt of the last of the information provided pursuant to Section 17.2 hereof. The Association may disapprove a lease on any reasonable grounds, including, but not limited to, any of the provisions defining good cause for transfers of title which might be applicable. The Board may impose additional conditions on the approval and disapproval of leases from time to time pursuant to its rule-making authority, as it determines is necessary in its sound business judgment, including additional grounds for the good cause denial of a proposed lease, without the need to further amend to this Section 17.3.

- 17.5 Mortgage Approval and Subordination. All liens against a Unit, other than a first mortgage recorded before the Association's claim of lien, shall be subordinate and inferior to the Association's lien for Assessments, regardless of the date of recordation of the Association's claim of lien, except to the extent otherwise required by law. Any first mortgage liens or other liens which become first mortgage liens which involve an outstanding balance which exceeds eighty percent (80%) of the fair market value of the Unit at the time the mortgage is recorded shall be subordinate and inferior to the Association's claim of lien to the extent the mortgage balance exceeds eighty percent (80%) of the fair market value of the Unit at the time of recordation of the mortgage.
18. **COMPLIANCE AND DEFAULT.** Each Unit Owner and every occupant, lessee, guest, agent, employee or contractor of a Unit Owner and the Association shall be governed by and shall comply with the terms of this Declaration of Condominium, the Articles of Incorporation, Bylaws, and the Rules and Regulations adopted pursuant to those documents, as the same may be amended from time to time. The Association (and Unit Owners, if appropriate) shall be entitled to the following relief in addition to the remedies provided by the Act:
- 18.1 Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement, whether to the Common Elements, Limited Common Elements, Association Property, a Unit, the Unit Owner's personal property, or to the personal property of the Association or other Unit Owners or residents or guests, including, but not limited to, repair after casualty under Article 14 hereinabove, made necessary by his or her violation of any portion of this Declaration, or by his or her negligence or intentional misconduct, or by that of any member of his family or his or her guests, agents, employees or contractors, but only to the extent such expense is not met by the proceeds of insurance actually collected by the Association. For purposes of this paragraph, a Unit Owner's failure to timely report to the Association any defects or need for repairs the responsibility for which is that of the Association in violation of Section 7.2(g) of this Declaration shall be deemed negligence and a breach of this paragraph. Any expense advanced by the Association to perform such maintenance, repair or replacement, together with interest, costs and attorneys' fees, shall be secured by a lien against the Unit enforceable in the same manner as an Assessment under Article 12 hereof.
- 18.2 Compliance. In the event a Unit Owner or occupant fails to comply with such Unit Owner's obligations under Articles 7, 9, 13 and 16 hereof or fails to observe and comply with any other provision of the Declaration, Bylaws, the Articles of Incorporation of the Association, applicable Rules and Regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to proceed in a court of equity to require performance and/or compliance, to sue in a court of law for damages, and levy a special charge against the Unit Owner and the Unit for the sums necessary to do whatever work is required to put the Unit Owner or Unit in compliance. Such charge, together with interest, costs and attorneys' fees, shall be secured by a lien against the Condominium

Parcel, enforceable in the same manner as Assessments levied under Article 12 hereof.

- 18.3 Eviction. The Association shall have the right to evict any tenant or occupant, whether approved, unapproved, or unauthorized, from a Unit in accordance with Chapter 83, Florida Statutes, for violating the Association's Governing Documents, the Acts or other applicable law. In the event the Association files an eviction proceeding against an Owner's tenant or other occupants, the Owner need not be named a party in said eviction proceeding to be held liable for the Legal Fees incurred by and awarded to the Association in the eviction proceeding. Further all attorneys' fees and costs for which an Owner is liable pursuant to this paragraph shall be deemed an assessment against the Owner's Unit, which shall be treated and collected as set forth in this Declaration.
- 18.4 Fines. In addition to all other remedies provided hereunder, in the event a Unit Owner or anyone for whom a Unit Owner is responsible fails to comply with a provision of the Declaration, the Bylaws, the Articles of Incorporation of the Association, applicable Rules and Regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required, the Association shall have the right to impose a fine against the Unit Owner and the Unit. The amount of any fine shall be determined by the Board of Directors of the Association, but in any event shall not exceed the maximum amount permitted by the Act.
- 18.5 Suspension of Use Rights. In addition to all other remedies provided hereunder, the Association shall have the right to suspend the rights of the Unit Owner, his or her tenants, guests, licensees or invitees, to use any portion of the Common Elements or Association Property or other facilities during any period of time during which the Unit Owner is delinquent in the payment of assessments or any other financial obligation to the Association or in the event a Unit Owner or anyone for whom a Unit Owner is responsible fails to comply with a provision of the Declaration, the Bylaws, the Articles of Incorporation of the Association, applicable Rules and Regulations, or any other agreement, document or instrument affecting the Condominium Property in the manner required.
- 18.6 Suspension of Voting Rights. In addition to the remedies provided in Article 12 hereof and by applicable law, the Association may suspend the voting rights of any Owner who is delinquent more than ninety (90) days in the payment of any monetary obligation to the Association. Any Owner whose voting rights are suspended does not count towards a quorum and the quorum is reduced to exclude such Owner.
- 18.7 Set Off. Any funds due and payable by the Association to an Owner under this Declaration, the Articles of Incorporation or the Bylaws, or under the Act shall be subject to a right of set-off for any amounts due and owing to the Act shall be subject to a right of set-off for any amounts due and owing to the Association by the Owner under this Declaration, the Articles of Incorporation, the Bylaws, or the Act.
- 18.8 Costs and Attorneys' Fees. The Association or any Unit Owner who takes action to enforce the Governing Documents of the Association, which does not result in a lawsuit being filed, shall be entitled to recover reasonable attorneys' fees and costs incurred, including such fees and costs for providing any and all pre-suit notice(s) of violation of the Governing Documents, notices of fining committee meetings and the outcome of such meetings, any and all statutory notices, and any other fees and costs incurred pre-suit to resolve any alleged violation(s) of the Governing Documents. Such charges, including interest thereon, shall be secured by a lien against the Owner's Unit

with the same force and effect as a lien for unpaid assessments, which the Association or prevailing Owner may foreclose in the same manner and procedure as set forth in this Declaration and Chapter 718. In such an event, the Association or prevailing Unit Owner shall be entitled to recover all additional attorney's fees and costs to foreclose said lien. In the event a lawsuit is filed to enforce the Governing Documents and if the Association or prevailing Unit Owner is awarded attorneys' fees and costs against a Unit Owner for violation of the Governing Documents, and said award remains unpaid for more than (30) days after the award becomes a final order not subject to appeal, then all amounts so awarded, including interest thereon, shall be secured by a lien against the Owner's Unit with the same force and effect as a lien for unpaid assessments, which the Association or prevailing Unit Owner may foreclose in the same manner and procedure as set forth in this Declaration and Chapter 718. In such an event, the Association or prevailing Unit Owner shall be entitled to recover all additional attorney's fees and costs to foreclose said lien against the Unit.

- 18.9 No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, or the Rules and Regulations, as the same may be amended from time to time, shall not constitute a waiver of their right to do so thereafter.
- 18.10 Election of Remedies. All rights, remedies and privileges granted to the Association or a Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be granted by the Condominium documents.

## 19. TERMINATION.

19.1 This Condominium may be voluntarily terminated in the manner provided for in the Condominium Act at any time. In addition thereto, if it is determined in the manner elsewhere provided that the Units will not be reconstructed because of major damage, the Condominium plan of ownership shall be terminated without agreement.

20. RESTRICTIONS AND EASEMENTS. The real property submitted to Condominium ownership hereby is subject to conditions, limitations, restrictions, dedications, reservations of record, taxes, applicable zoning ordinances now existing or which may hereafter exist, easements for Utility Service for the United States Post Office authorities, and any right of the United States of America, State of Florida, or any governmental agency as to any submerged lands and as to any lands lying below the natural, ordinary high water line of the surrounding bodies of water, easements for ingress and egress for pedestrian and vehicular purposes, easements for Utility Service and drainage now existing or hereafter granted by the Association for the benefit of such persons as the Association designates. An easement, whether heretofore or hereafter created under and pursuant to this Declaration shall constitute a covenant running with the Land of the Condominium, and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with the proper and intended use and purpose and shall survive the termination of the Condominium. The Unit Owners of this Condominium do hereby designate the Association as their lawful attorney-in-fact to execute any and all instruments on their behalf for the purposes of creating all such easements as are contemplated by the provisions hereof.

21. **COVENANT RUNNING WITH THE LAND.** All provisions of this Declaration, the Articles of Incorporation, Bylaws and applicable Rules and Regulations of the Association shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the Association, the Unit Owners, and their respective heirs, personal representatives, successors and assigns, but the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All present and future Unit Owners, tenants and occupants of Units shall be subject to and shall comply with the provisions of this Declaration and such Articles, Bylaws and applicable Rules and Regulations, as they may be amended from time to time. The acceptance of a deed of conveyance, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an adoption and ratification of the provisions of this Declaration, and the Articles, Bylaws and applicable Rules and Regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained herein.
22. **ADDITIONAL PROVISIONS.**
- 22.1 **Notices.** All notices to the Association required or desired hereunder or under the Bylaws of the Association shall be sent by certified mail to the Association in care of its office at the Condominium, or to such other address as the Association may hereafter designate from time to time by notice in writing to all Unit Owners, unless another manner of delivery is specifically required by the Condominium Act or this Declaration or the Bylaws. Except as provided specifically in the Act, all notices to any Unit Owner shall be sent by first class mail to the Condominium address of such Unit Owner, or such other address as may have been designated by him from time to time, in writing, to the Association. All notices to mortgagees of Units shall be sent by first class mail to their respective addresses, or such other address as may be designated by them from time to time, in writing to the Association.
- 22.2 **Interpretation.** The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits referenced herein. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.
- 22.3 **Exhibits.** There is hereby incorporated in this Declaration all materials contained in the Exhibits annexed hereto, except that as to such Exhibits, any conflicting provisions set forth therein as to their amendment, modification, enforcement and other matters shall control over those hereof.
- 22.4 **Signature of President and Secretary.** Wherever the signature of the President of the Association is required hereunder, the signature of a Vice-President may be substituted therefore, and wherever the signature of the Secretary of the Association is required hereunder, the signature of a Treasurer may be substituted therefore, provided that the same person may not execute any single instrument on behalf of the Association in two separate capacities.
- 22.5 **Governing Law.** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the Exhibits referenced herein or applicable Rules and Regulations adopted pursuant to such

documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida.

- 22.6 Severability. The invalidity in whole or in part of any covenant or restriction, or any article, section, subsection, sentence, clause, phrase or word, or other provision of this Declaration, the Exhibits referenced herein, or applicable Rules and Regulations adopted pursuant to such documents, as the same may be amended from time to time, shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.
- 22.7 Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, without regard to the number of violations or breaches which may occur.
- 22.8 Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law or otherwise), and each occupant of a Unit, by reason of his occupancy, shall be deemed to have acknowledged and agreed that all of the provisions of this Declaration, and the Articles and Bylaws of the Association, and applicable Rules and Regulations, are fair and reasonable in all material respects.
- 22.9 Gender Plurality. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular and the use of any gender shall be deemed to include all or no genders.
- 22.10 Captions. The captions herein and in the Exhibits referenced herein are inserted only as a matter of convenience and for ease of reference and in no way define or limit the scope of the particular document or any provision thereof.

LEGAL DESCRIPTION

A portion of land lying in Section 27, Township 33 South, Range 40 East, known also as lot 54 of the Moorings, Unit One as recorded in Platbook 8, Page 6 of the Public Records of Indian River County, Florida, and said lot containing a gross area of 287,191.977 square feet or 6.59 acres more or less; AND

LESS AND EXCEPTING a portion of land for the pool property and said property being more particularly described as follows:

Commencing from a northeast corner of lot 54, said corner lying on the south right of way line of Galleon Drive and said corner being at a point of reverse curvature. The first curve having a radius of 30.00 feet and concave to the southeast and the second curve having a radius of 443.41 feet and concave to the northwest;

Thence run along said south right of way line an arc distance of 153.77 feet, said arc subtending a central angle of 19 degrees 52 minutes 11 seconds;

Thence S 01 13' 23" W, 77.00 feet;

Thence S 88 28' 46" E, 40.00 feet;

Thence S 37 55' 15" E, 65.00 feet;

Thence S 28 44' 15" W, 90.00 feet to the true point of beginning of said property.

Thence S 18 10' 45" E, 151.90 feet;

Thence S 46 50' 15" W, 10.00 feet;

Thence N 81 00' 58" W, 69.94 feet;

Thence N 18 16' 25" W, 124.52 feet;

Thence N 72 04' 59" E, 71.50 feet to the point of beginning.

Said property containing 10,141.88 square feet or 0.23 acres more or less. The net area for lot 54 thus being a net total of 277,050.092 square feet or 6.36 acres more or less.

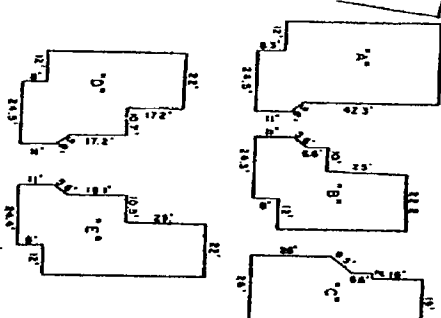
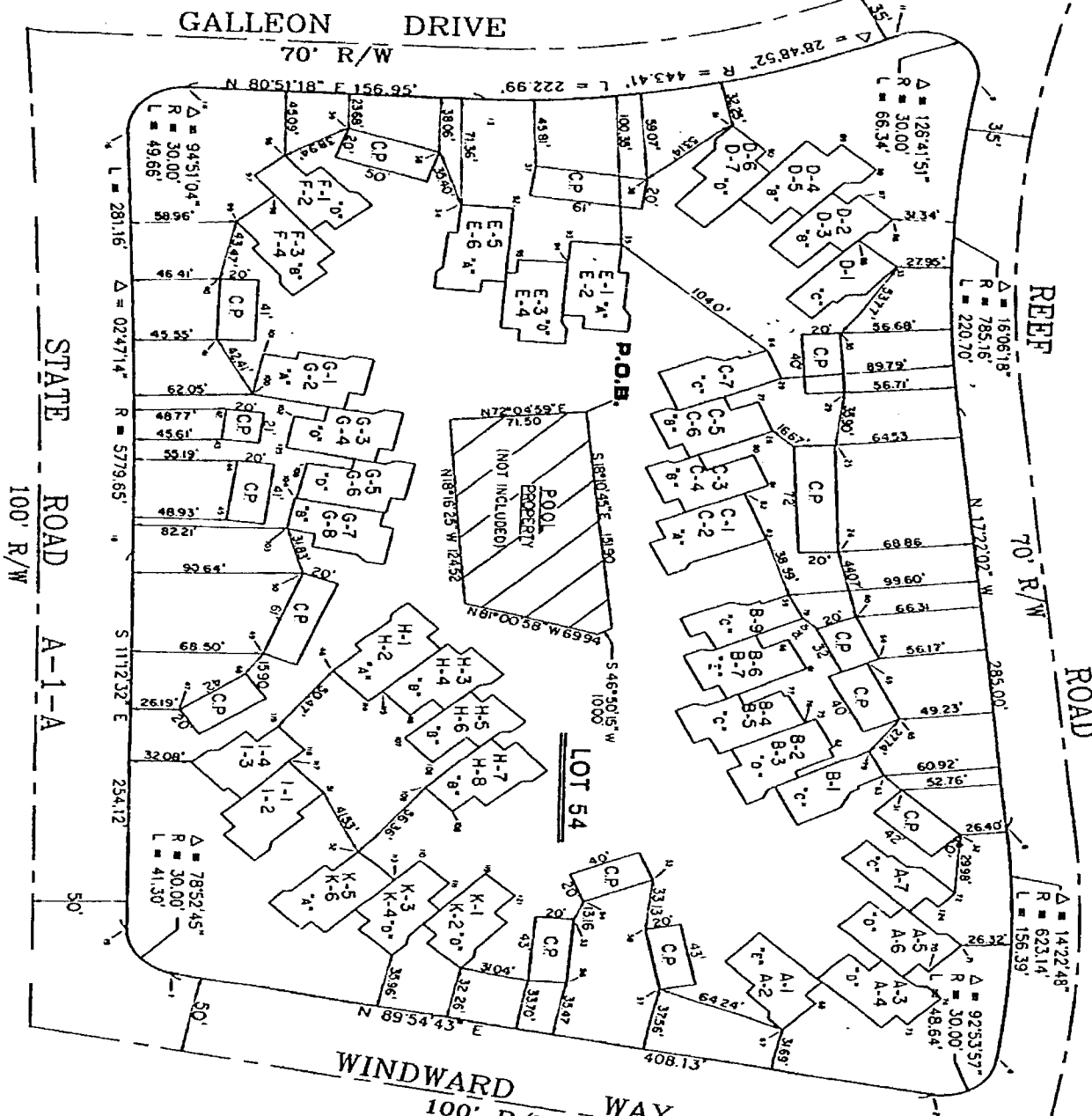
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88-492

WINDWARD CONDO

88-492

LEGEND  
C.P. = CAR PORT (WOOD FRAME - TYPICAL)



FLOOD ZONE X  
 MAP NUMBER 120600169E  
 EFFECTIVE DATE 5-4-89

**LEGAL DESCRIPTION**  
 A portion of land lying in Section 33, Township 33 South, Range 40 East, between the 20th 1/4, 34th 1/4, 48th 1/4, 62nd 1/4, 76th 1/4, 90th 1/4, 104th 1/4, 118th 1/4, 132nd 1/4, 146th 1/4, 160th 1/4, 174th 1/4, 188th 1/4, 202nd 1/4, 216th 1/4, 230th 1/4, 244th 1/4, 258th 1/4, 272nd 1/4, 286th 1/4, 300th 1/4, 314th 1/4, 328th 1/4, 342nd 1/4, 356th 1/4, 370th 1/4, 384th 1/4, 398th 1/4, 412th 1/4, 426th 1/4, 440th 1/4, 454th 1/4, 468th 1/4, 482th 1/4, 496th 1/4, 510th 1/4, 524th 1/4, 538th 1/4, 552th 1/4, 566th 1/4, 580th 1/4, 594th 1/4, 608th 1/4, 622th 1/4, 636th 1/4, 650th 1/4, 664th 1/4, 678th 1/4, 692th 1/4, 706th 1/4, 720th 1/4, 734th 1/4, 748th 1/4, 762th 1/4, 776th 1/4, 790th 1/4, 804th 1/4, 818th 1/4, 832th 1/4, 846th 1/4, 860th 1/4, 874th 1/4, 888th 1/4, 902th 1/4, 916th 1/4, 930th 1/4, 944th 1/4, 958th 1/4, 972th 1/4, 986th 1/4, 1000th 1/4, 1014th 1/4, 1028th 1/4, 1042th 1/4, 1056th 1/4, 1070th 1/4, 1084th 1/4, 1098th 1/4, 1112th 1/4, 1126th 1/4, 1140th 1/4, 1154th 1/4, 1168th 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AS BUILT OF WINDWARD CONDOMINIUMS,  
 LOT 54, THE MOORINGS, UNIT 1

SEE LEGAL

LYOYD E. ASSOCIATES, INC.  
 ENGINEERS & SURVEYORS  
 1428 SOUTH AV. VERO BEACH, FLORIDA 32979

DR0888PG0763

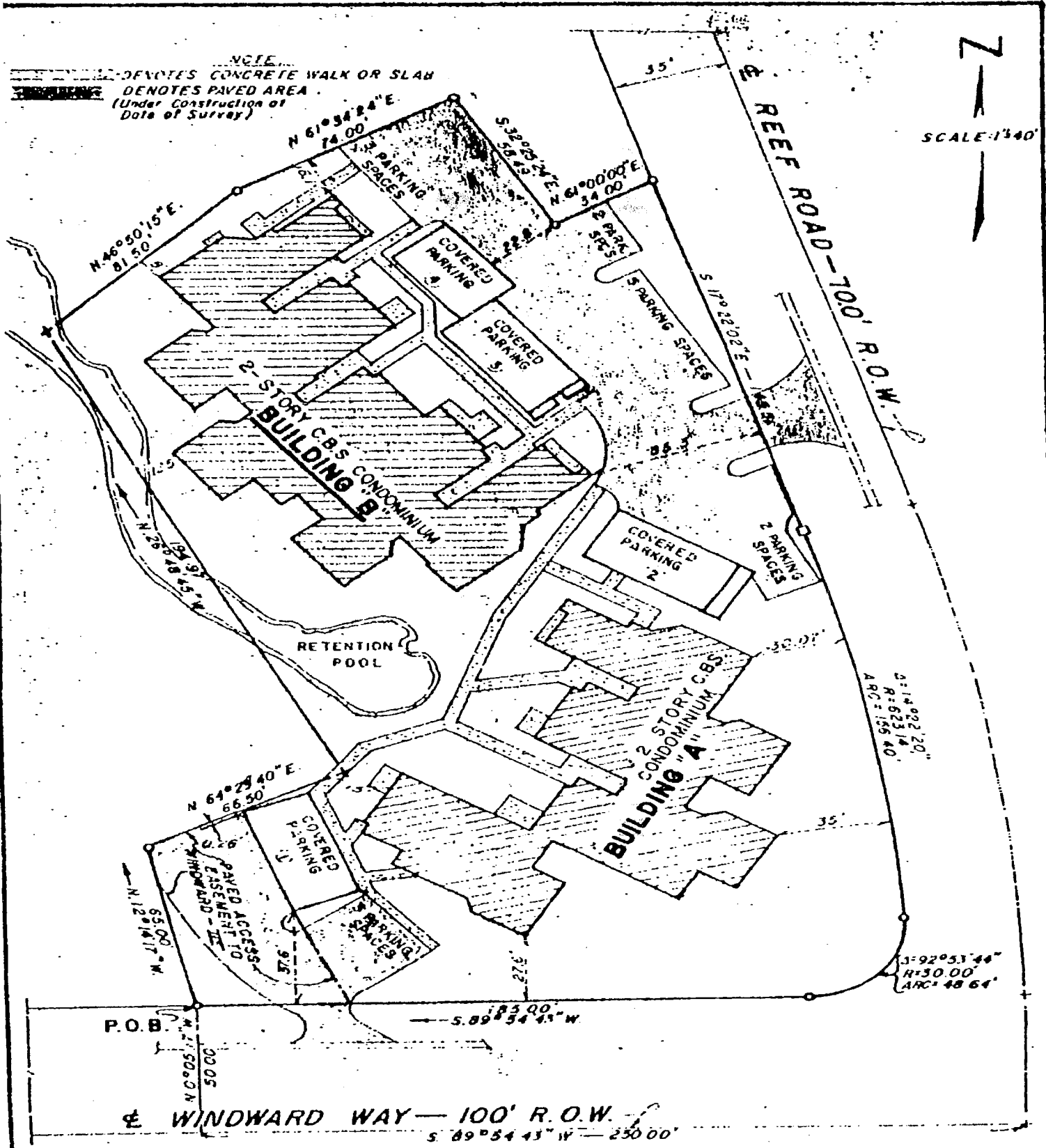
11-492

LIST OF COORDINATE POINTS FOR PROPERTY & BUILDING CORNERS:  
SEE SHEET 1 OF 2 FOR CORRESPONDING POINT NUMBERS

Point	Corner	Coordinates	Point	Corner	Coordinates
1	...	...	61	...	...
2	...	...	62	...	...
3	...	...	63	...	...
4	...	...	64	...	...
5	...	...	65	...	...
6	...	...	66	...	...
7	...	...	67	...	...
8	...	...	68	...	...
9	...	...	69	...	...
10	...	...	70	...	...
11	...	...	71	...	...
12	...	...	72	...	...
13	...	...	73	...	...
14	...	...	74	...	...
15	...	...	75	...	...
16	...	...	76	...	...
17	...	...	77	...	...
18	...	...	78	...	...
19	...	...	79	...	...
20	...	...	80	...	...
21	...	...	81	...	...
22	...	...	82	...	...
23	...	...	83	...	...
24	...	...	84	...	...
25	...	...	85	...	...
26	...	...	86	...	...
27	...	...	87	...	...
28	...	...	88	...	...
29	...	...	89	...	...
30	...	...	90	...	...
31	...	...	91	...	...
32	...	...	92	...	...
33	...	...	93	...	...
34	...	...	94	...	...
35	...	...	95	...	...
36	...	...	96	...	...
37	...	...	97	...	...
38	...	...	98	...	...
39	...	...	99	...	...
40	...	...	100	...	...
41	...	...	101	...	...
42	...	...	102	...	...
43	...	...	103	...	...
44	...	...	104	...	...
45	...	...	105	...	...
46	...	...	106	...	...
47	...	...	107	...	...
48	...	...	108	...	...
49	...	...	109	...	...
50	...	...	110	...	...
51	...	...	111	...	...
52	...	...	112	...	...
53	...	...	113	...	...
54	...	...	114	...	...
55	...	...	115	...	...
56	...	...	116	...	...
57	...	...	117	...	...
58	...	...	118	...	...
59	...	...	119	...	...
60	...	...	120	...	...

NO.	DESCRIPTION (SEE SHEET FOR 1)	DATE	BY	REVISION
1	...	...	...	...
2	...	...	...	...

LLOYD & ASSOCIATES, INC.  
1035 20th Street  
New York, New York 10036



0R0888PG0765

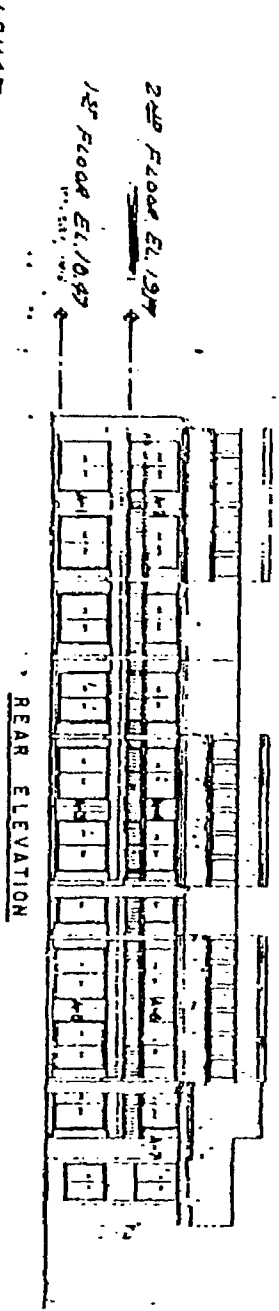
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SHEET N<sup>o</sup> 2

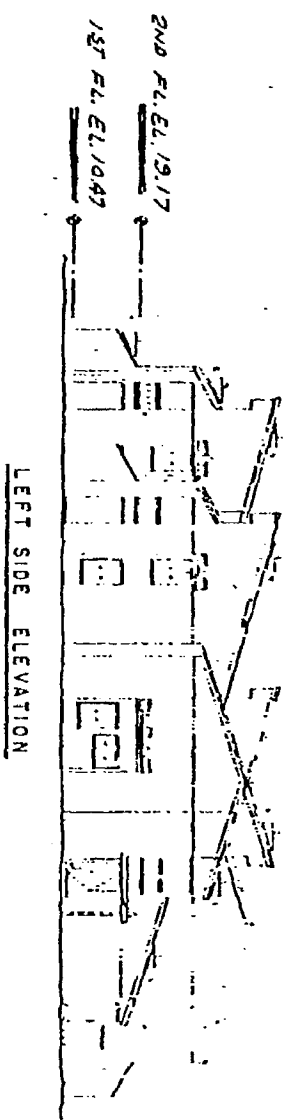
Commence at the intersection of the centerlines of Reef Road and Windward Way, The Moorings, Unit One; as per Plat Book 8, Page 6, Indian River County Public Records; thence run south 89 deg. 54 min. 43 sec. west and along the centerline of Windward Way a distance of 250.00 feet; thence run north 0 deg. 05 min. 17 sec. west a distance of 50.00 feet to the north right-of-way of Windward Way and to the south boundary of Lot 54 of the aforesaid Unit One of The Moorings Subdivision, said point being the point of beginning of the following described tract; thence run north 12 deg. 14 min. 17 sec. west a distance of 65.00 feet; thence run north 64 deg. 29 min. 40 sec. east a distance of 66.50 feet; thence run north 26 deg. 48 min. 45 sec. west a distance of 194.97 feet; thence run north 46 deg. 50 min. 15 sec. east a distance of 81.50 feet; thence run north 61 deg. 34 min. 24 sec. east a distance of 74.00 feet; thence run south 32 deg. 25 min. 24 sec. east a distance of 58.49 feet; thence run north 61 deg. 00 min. 00 sec. east a distance of 34.00 feet and to the west right-of-way of Reef Road and the east boundary of Lot 54 of The Moorings, Unit One; thence run South 17 deg. 22 min. 02 sec. east and along the east boundary of aforesaid Lot 54 a distance of 145.51 feet; thence continue along the east property line of aforesaid Lot 54 on a circular curve concave to the right with a radius of 623.14 feet, an arc distance of 156.40 feet; thence continue along the east and south boundary of Lot 54 on a circular curve concave to the right and having a radius of 30.00 feet; an arc distance of 48.64 feet; thence run south 89 deg. 54 min. 43 sec. west and along the south boundary of Lot 54 a distance of 185.00 feet to the point of beginning. All lying in Lot 54, Unit One of The Moorings as per Plat Book 8, Page 6, Indian River Public Records, Indian River County, Florida, containing 1.42 acres.

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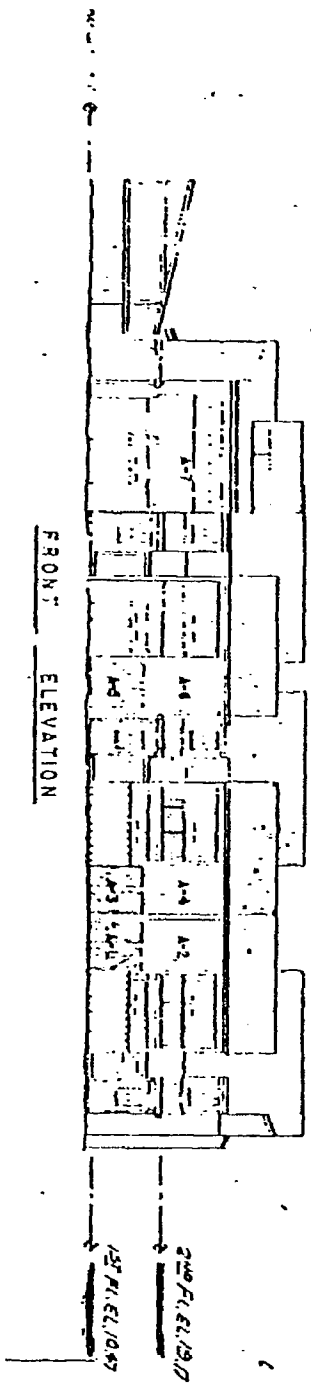
ELEVATIONS REFER TO M.S.L.  
DATUM FOR M.S.L.



REAR ELEVATION



LEFT SIDE ELEVATION



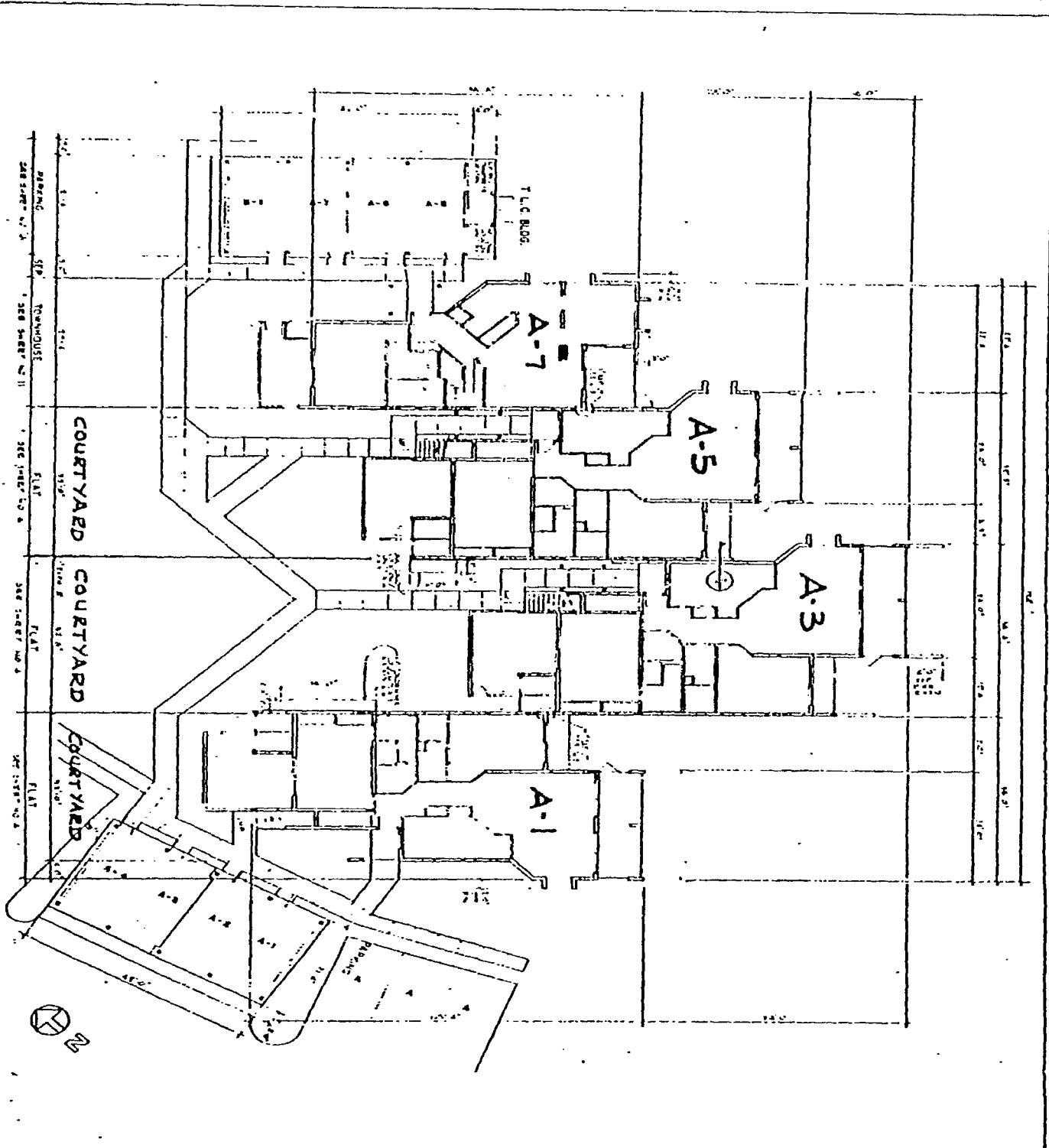
FRONT ELEVATION

### WINDWARD CONDOMINIUM BUILDING "A" ELEVATION

EXHIBIT "C"

Prepared By:  
S. P. MUSICK, R.L.S. 1192  
VERO BEACH, FLORIDA  
JULY 11, 1978  
O.R. 051.0 PAGE 2231

OR0888PG0767



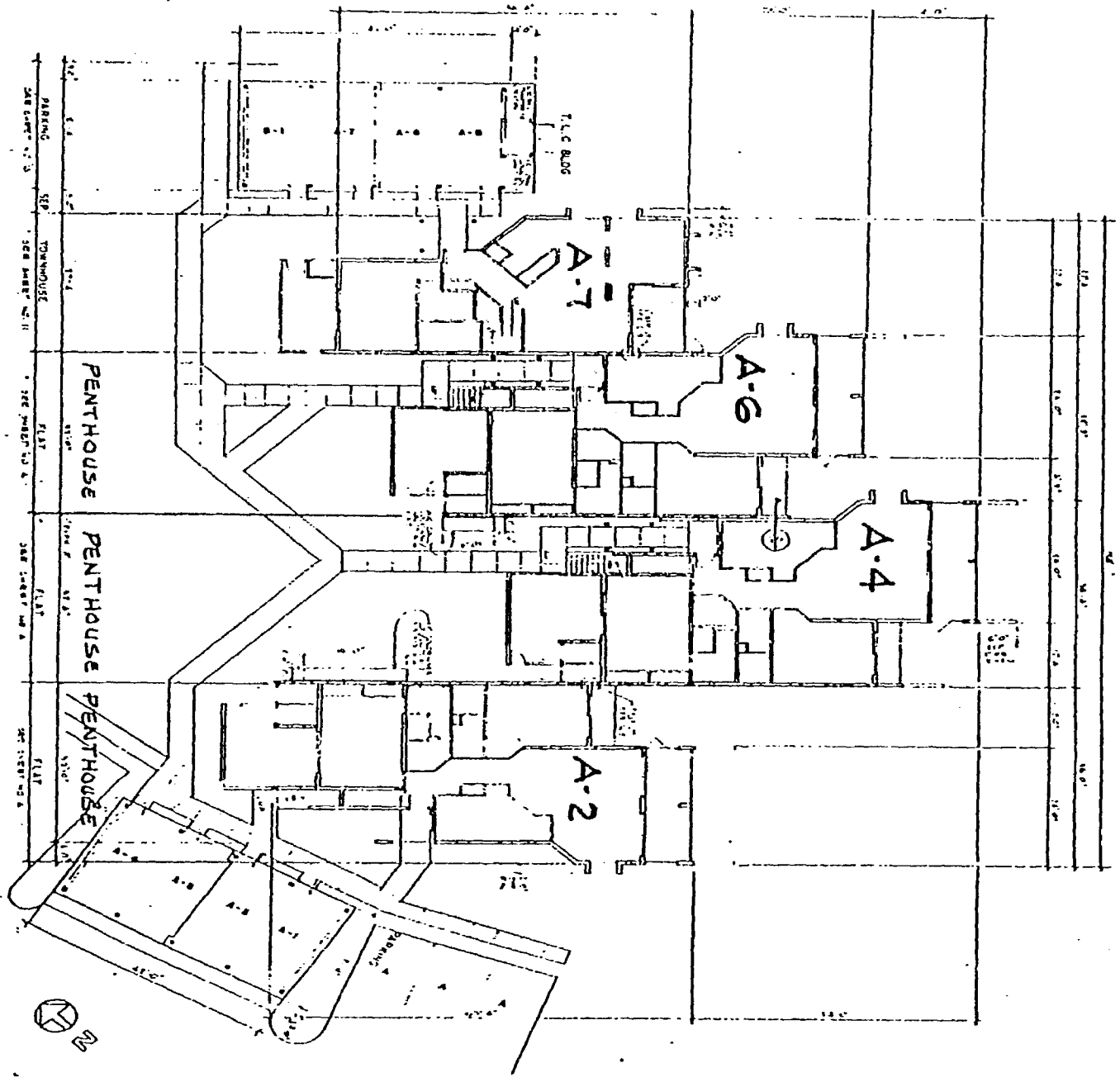
**WINDWARD - CONDOMINIUM**  
**I ST. FLOOR PLAN - BUILDING "A"**

EXHIBIT "C"

89709888080

*Prepared By:*  
**S. P. MUSICK, R.L.S. 1192**  
**VERO BEACH, FLORIDA**  
**JULY 11, 1978**

22230569 PAGE 2232

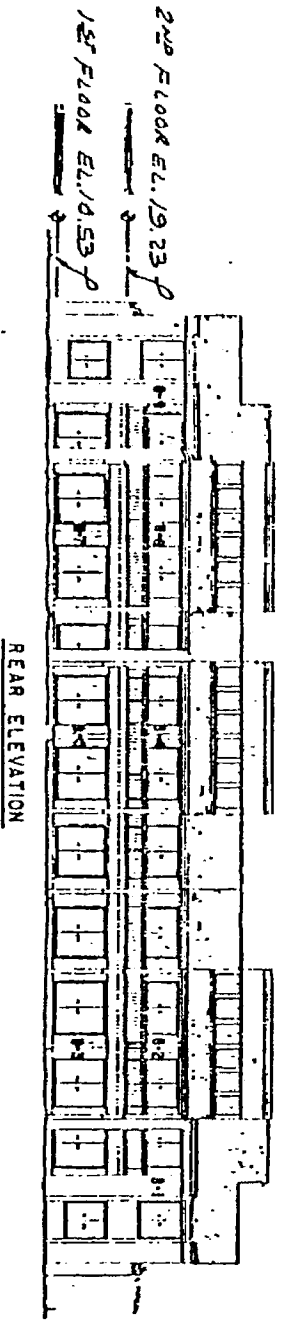
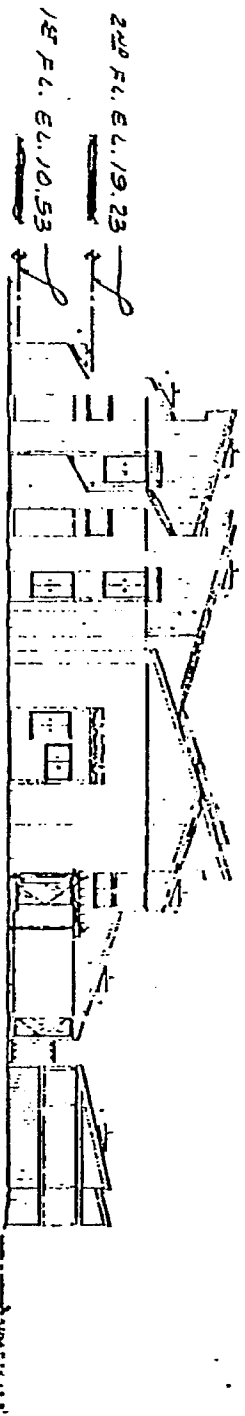
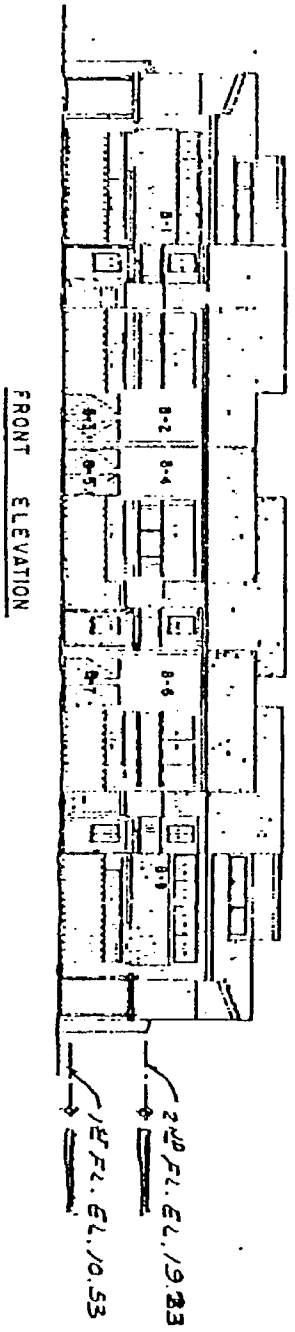


**WINDWARD - CONDOMINIUM**  
**2 ND. FLOOR PLAN - BUILDING "A"**

EXHIBIT "C"  
 69L09J8880R0

*Prepared By:*  
**S. P. MUSICK, R.L.S. 1192**  
**VERO BEACH, FLORIDA**  
**JULY 11, 1978**  
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OR0688PG0770

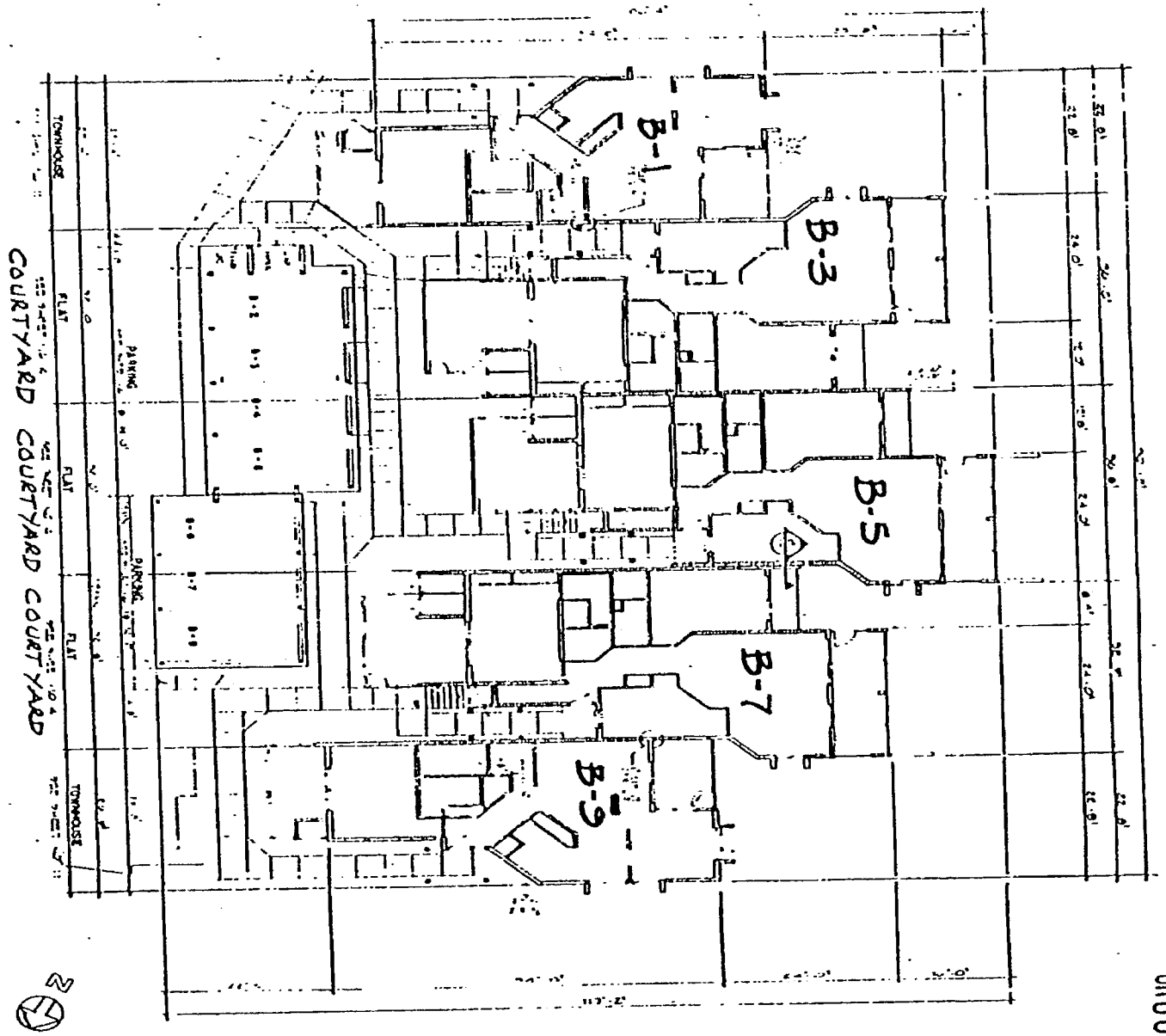


ELEVATIONS REFER TO M.S.L. DATUM FOR M.S.L.

### WINDWARD - CONDOMINIUM BUILDING "B" ELEVATION

EXHIBIT "C"

Prepared By:  
 S. P. MUSICK, R.L.S. 1192  
 VERO BEACH, FLORIDA  
 JULY 11, 1978  
 2.R. 00X0 5 6 4 PAGE 2 2 3 4

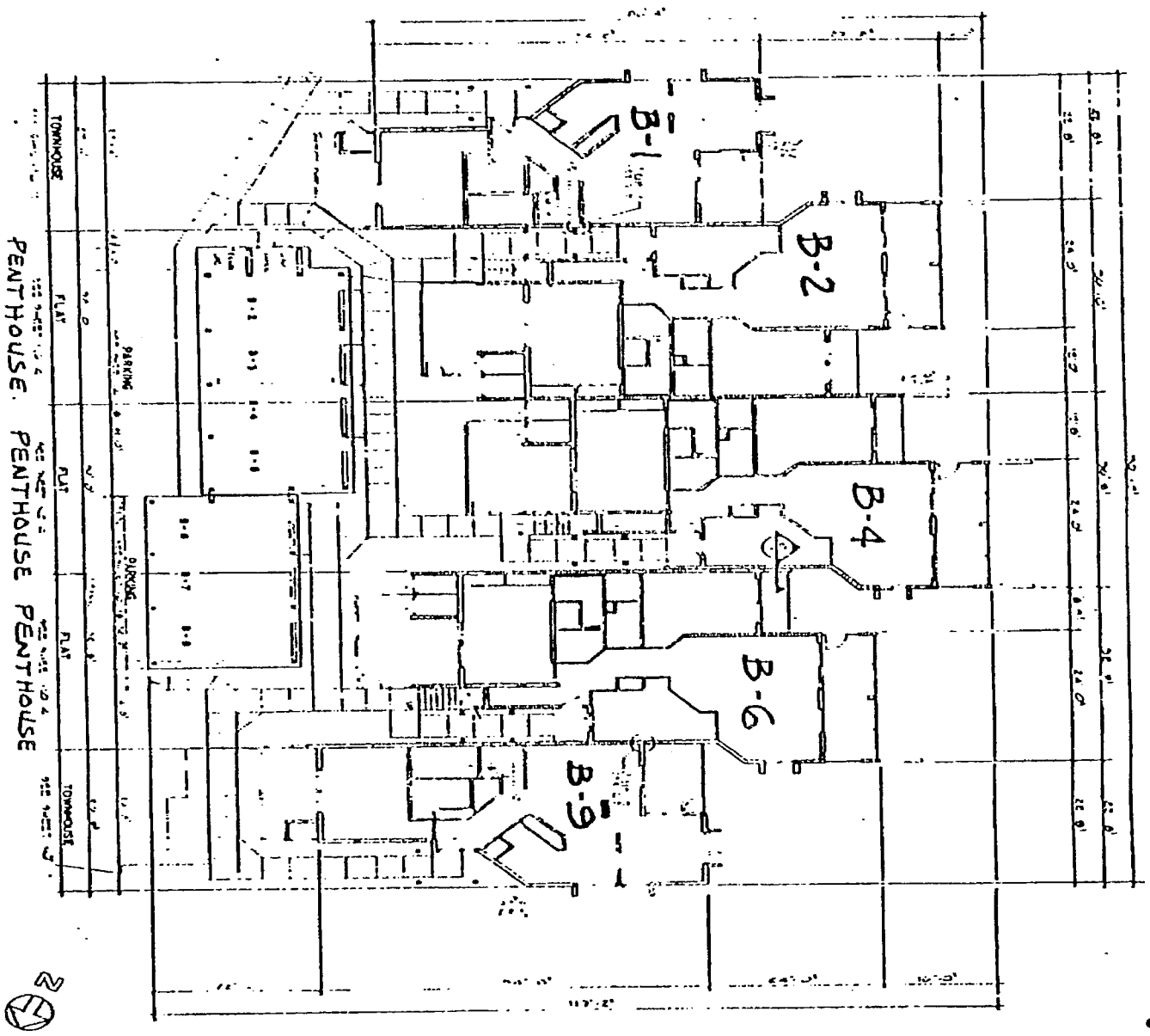


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**WINDWARD - CONDOMINIUM**  
**1 ST. FLOOR PLAN - BUILDING "B"**

EXHIBIT "C"

*Prepared By:*  
**S. P. MUSICK, R.L.S. 1192**  
**VERO BEACH, FLORIDA**  
**JULY 11, 1978**



PENTHOUSE  
 FLAT  
 FLAT  
 FLAT  
 PENTHOUSE

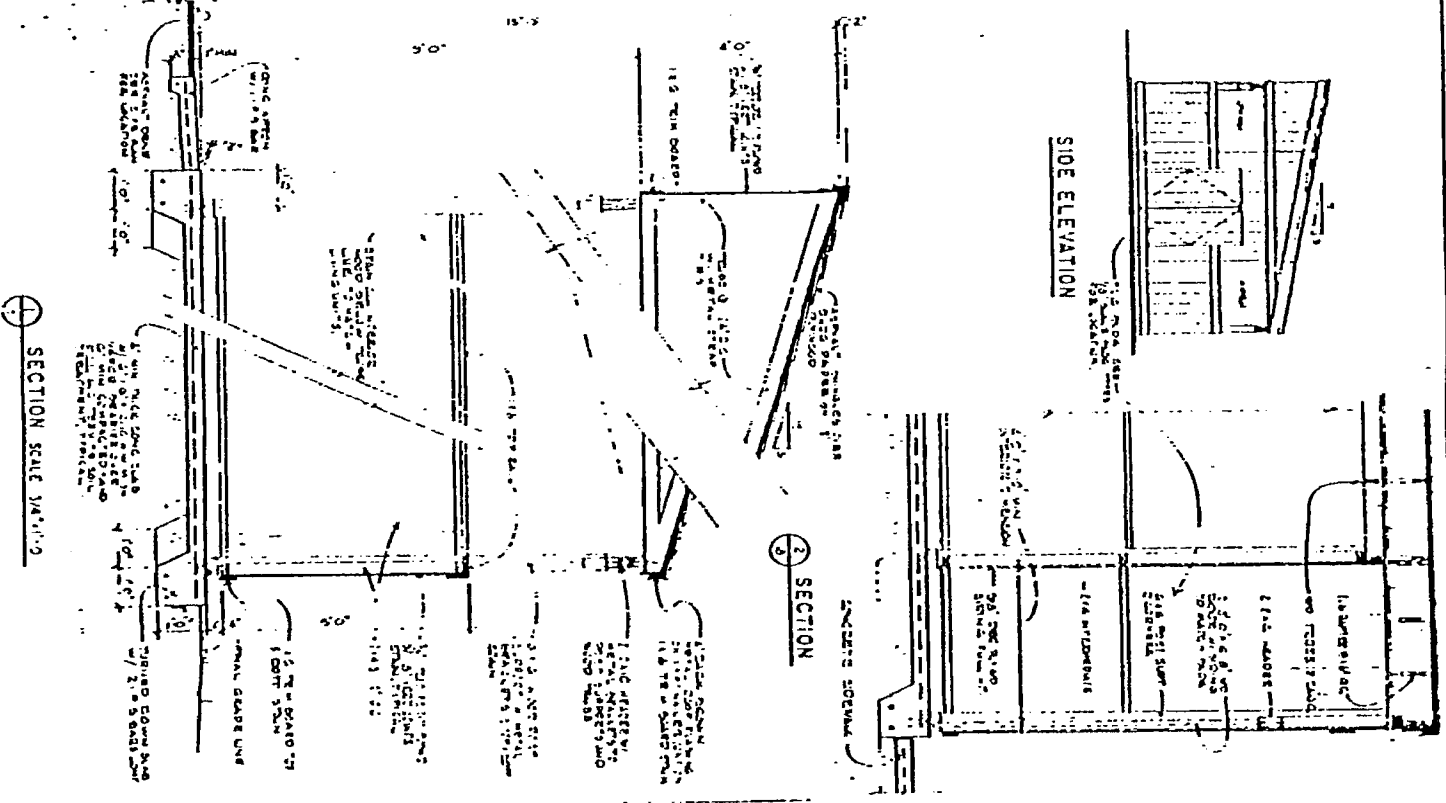
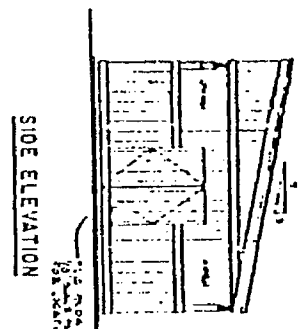
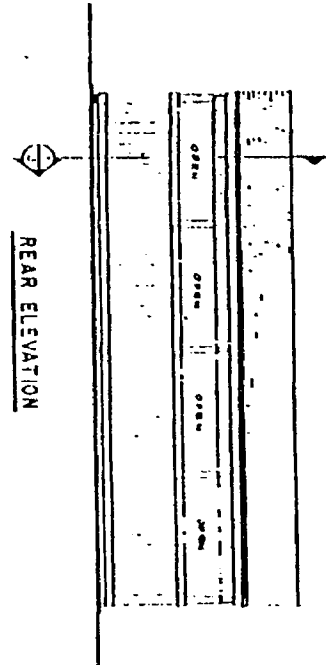
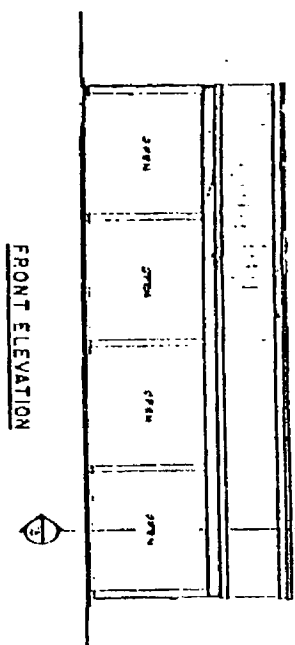
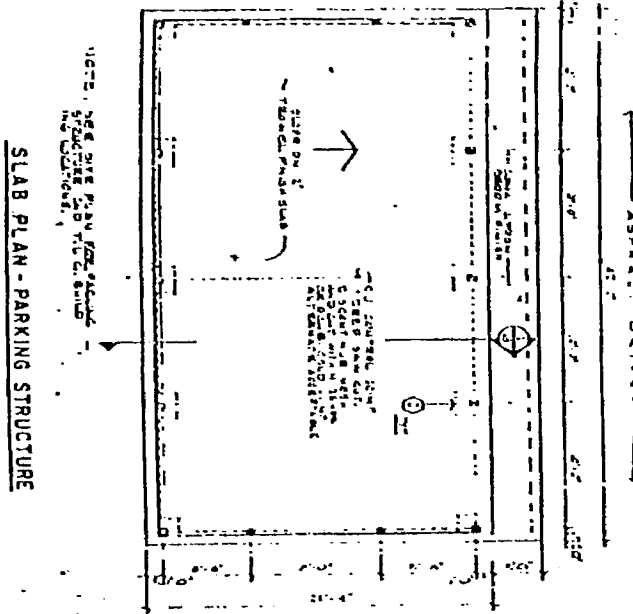


**WINDWARD CONDOMINIUM**  
**2 ND. FLOOR PLAN - BUILDING "B"**

EXHIBIT "C"

*Prepared By:*  
 S. P. MUSICK, R.L.S. 1192  
 VERO BEACH, FLORIDA  
 JUL 2, 1978  
 BOOK 504 PAGE 2236

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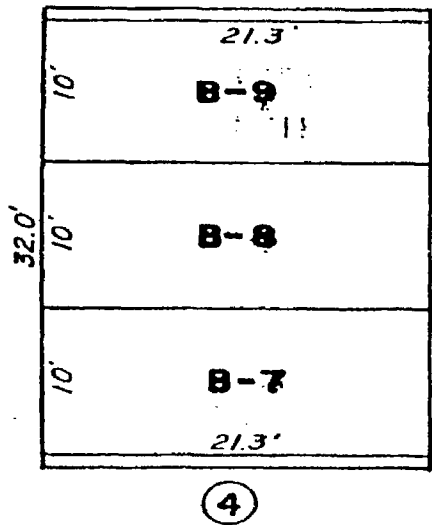
**WINDWARD- CONDOMINIUM**  
**PLAN & ELEVATION - COVERED PARKING STRUCT.**

EXHIBIT "C"

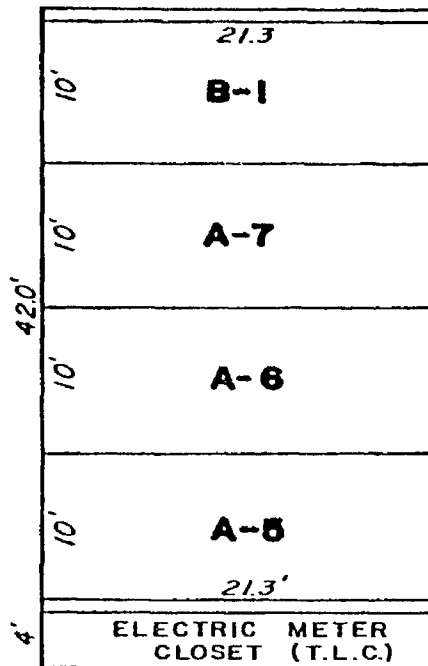
Prepared By:  
 S. P. MUSICK, R. L. S. 1192  
 VERO BEACH, FLORIDA  
 JULY 11, 1978

OR088860773

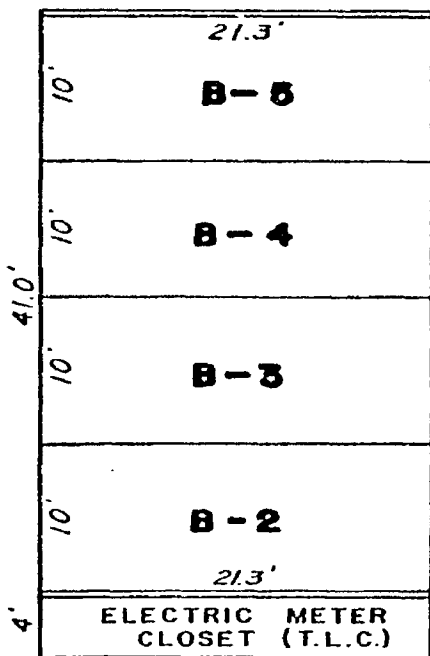
NOTE  
FOR LOCATION, SEE EXHIBIT A-SHEET 1



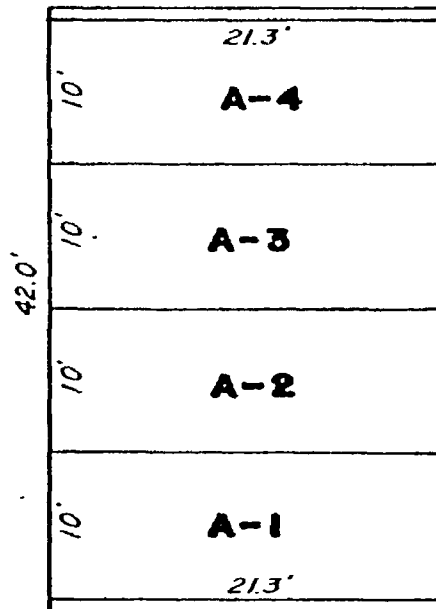
④



②



③



①



**WINDWARD CONDOMINIUM**  
**DESIGNATED COVERED PARKING**

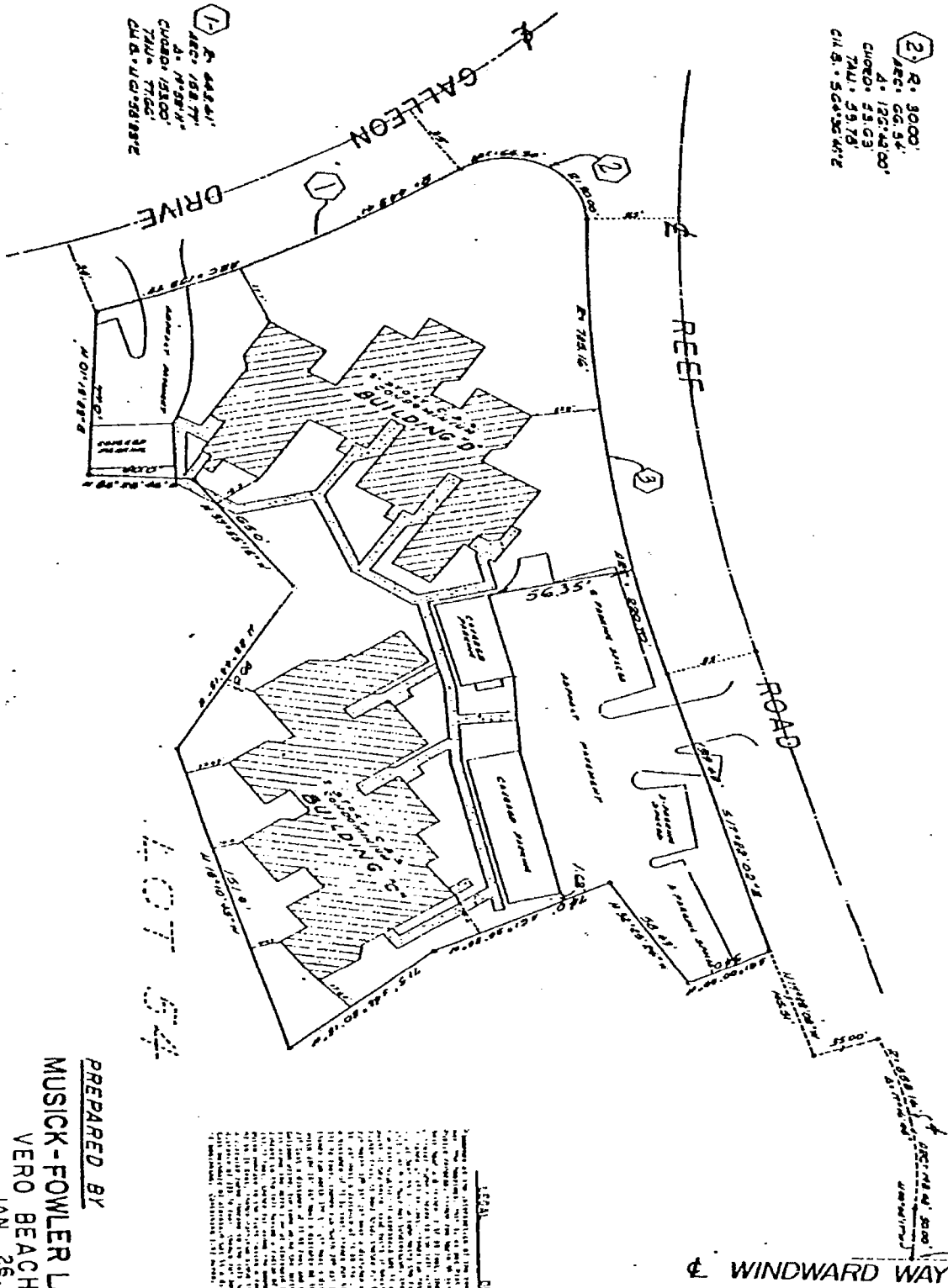
EXHIBIT "C"

Prepared By  
S. P. MUSICK, R. L.S. 1192  
VERO BEACH, FLORIDA  
JULY 11, 1978

OR0888PC0774

# BOUNDARY SURVEY & SITE PLAN WINDWARD CONDOMINIUM

DR0888PG0775



③ R. 785.6'  
ARC. 230.70'  
A. 167°02'19"  
COORD. 219.97'  
TAL. 111.08'  
CH.B. 5.09°14'33.2"

② R. 30.00'  
ARC. 66.94'  
A. 122°42'00"  
COORD. 51.63'  
TAL. 59.78'  
CH.B. 50°25'41.2"

① R. 444.81'  
ARC. 158.71'  
A. 175°51'41"  
COORD. 125.00'  
TAL. 77.62'  
CH.B. 41°58'58.92"

LOT 54

**DESCRIPTION**

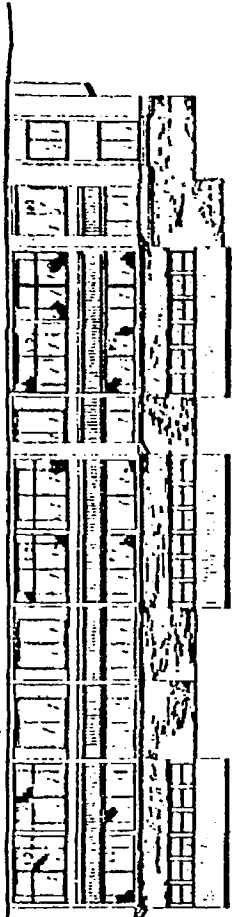
A survey of the Windward Condominium project, consisting of the land and buildings thereon, was made by the undersigned on or about the 15th day of January, 1979, and the results thereof are set forth in this report. The survey was made in accordance with the provisions of the Florida Statutes, Chapter 218, Florida Statutes, and the rules and regulations of the Board of Professional Engineers, Architects and Surveyors, State of Florida. The survey was made in accordance with the provisions of the Florida Statutes, Chapter 218, Florida Statutes, and the rules and regulations of the Board of Professional Engineers, Architects and Surveyors, State of Florida. The survey was made in accordance with the provisions of the Florida Statutes, Chapter 218, Florida Statutes, and the rules and regulations of the Board of Professional Engineers, Architects and Surveyors, State of Florida.

PREPARED BY  
**MUSICK-FOWLER LAND SURVEYING CO.**  
VERO BEACH, FLORIDA  
JAN. 26, 1979

ELEVATIONS REFER TO  
N.G.S. DATUM FOR M.S.L.

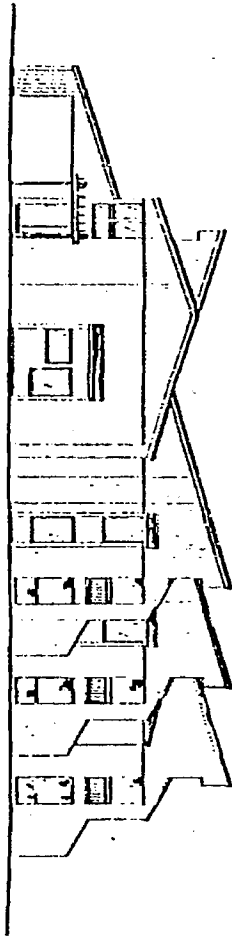
BUILDING "C" ELEVATIONS

REAR ELEVATION

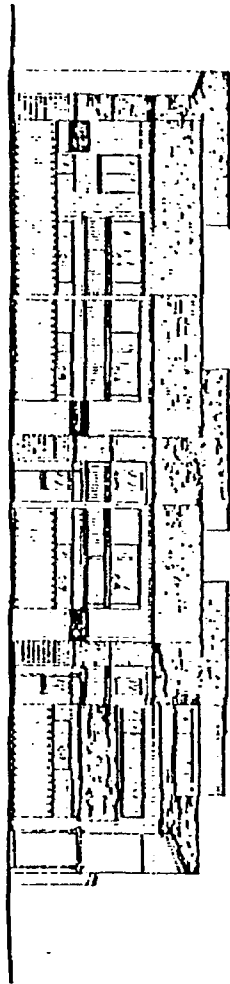


EL. 19.20'  
EL. 10.50'

RIGHT SIDE ELEVATION



FRONT ELEVATION



**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**  
Altamonte Springs, Fla.

EXHIBIT "C"

OR0888PG0776

2791 PAGE 1623

PROJECT NUMBER	7104
DATE	26 MAY 78
SCALE	1/8" = 1'-0"
NO. REVISION	
DATE	
DESIGNED	IC/CD/SLD
T.E.R.	SM
6	

SHEET 6 OF 37

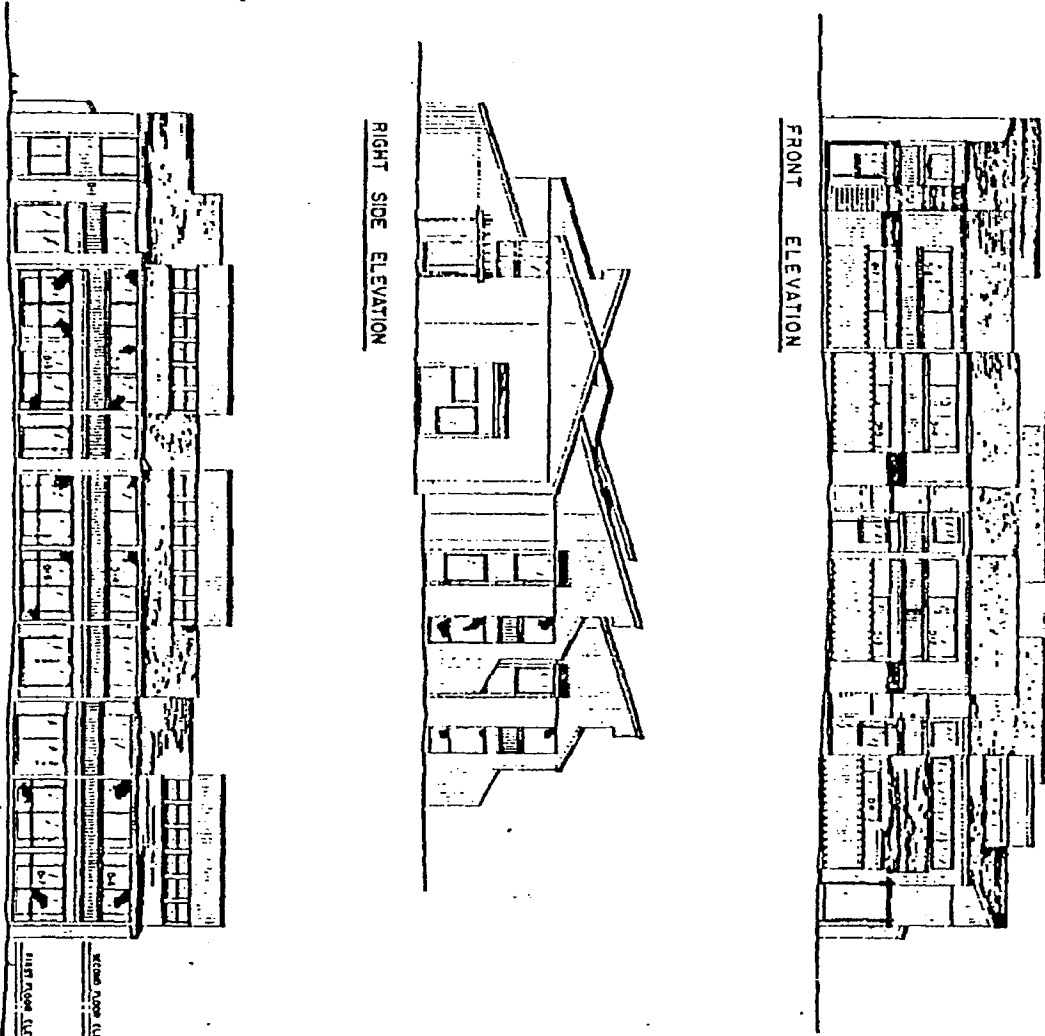




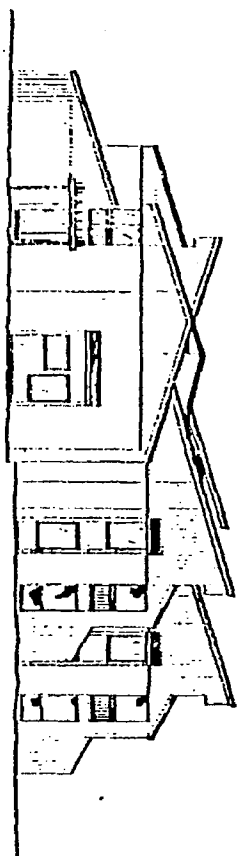
ELEVATIONS REFER TO  
N.G.S. DATUM FORM. 5.1.

BUILDING "D" ELEVATIONS

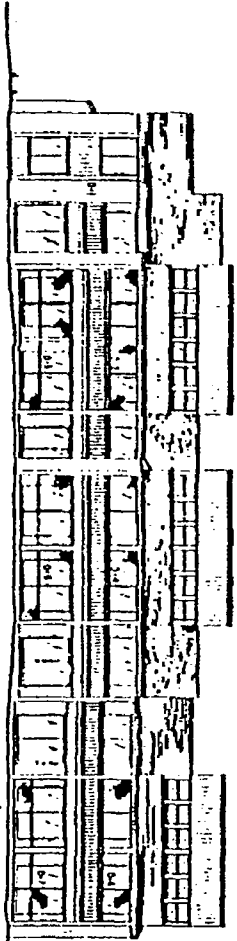
FRONT ELEVATION



RIGHT SIDE ELEVATION



REAR ELEVATION



**WINDWARD**  
Vero Beach, Fla.

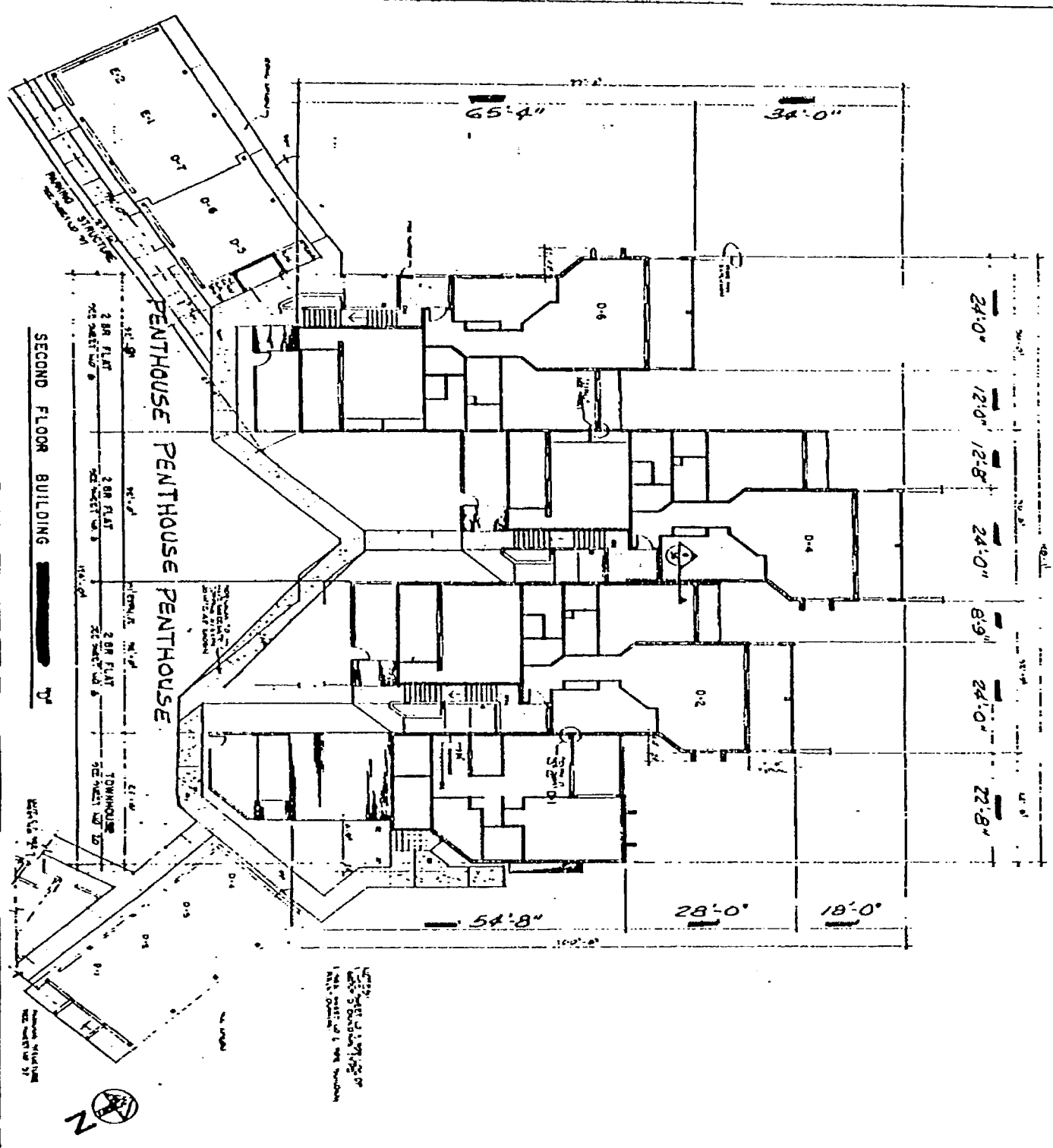
**Oru Bose Architects**  
Altamonte Springs, Fla.

PROJECT NUMBER	7104
DATE	28 MAY 78
SCALE	1/8" = 1'-0"
DESIGNED BY	ORU BOSE ARCHITECTS
DRAWN BY	ORU BOSE ARCHITECTS
CHECKED BY	ORU BOSE ARCHITECTS
DATE	7

OR0888PG0779

92913061626  
280579 PAGE 1626





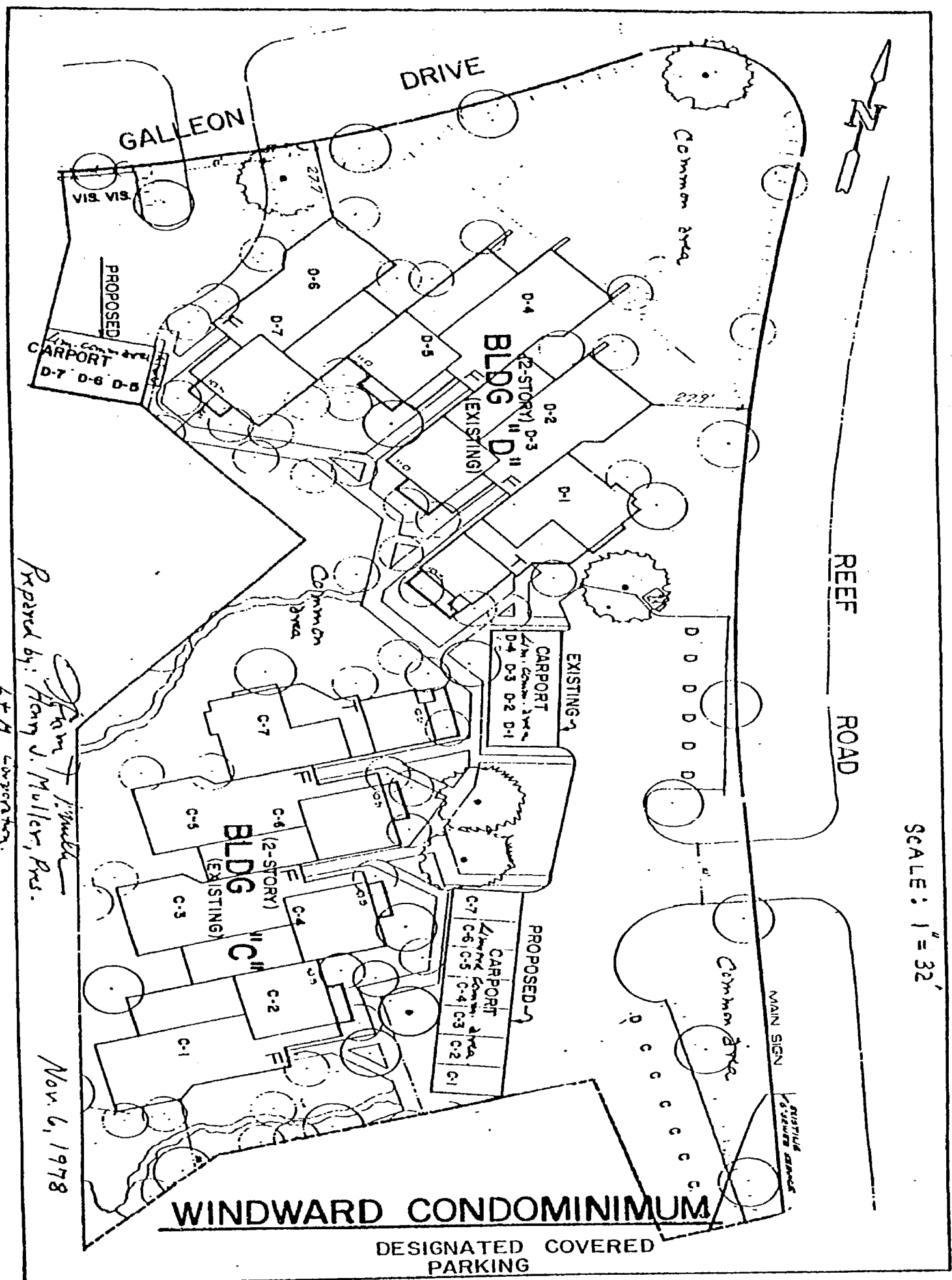
PROJECT NUMBER	7704
DATE	16 MAY 78
SCALE	1/8" = 1'-0"
NO. OF SHEETS	5
NO. OF SHEETS USED	5
DATE	16 MAY 78

**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**  
Altamonte Springs, Fla.

OR0888PG0781  
62913916150496

EXHIBIT "C"



REEF ROAD

SCALE: 1" = 32'

OR0888PG0782

6291 3946 L5 0995

**WINDWARD CONDOMINIUM**

DESIGNATED COVERED PARKING

Prepared by: *Harry J. Muller, P.E.*  
*AT & M Corporation*

Nov. 6, 1978



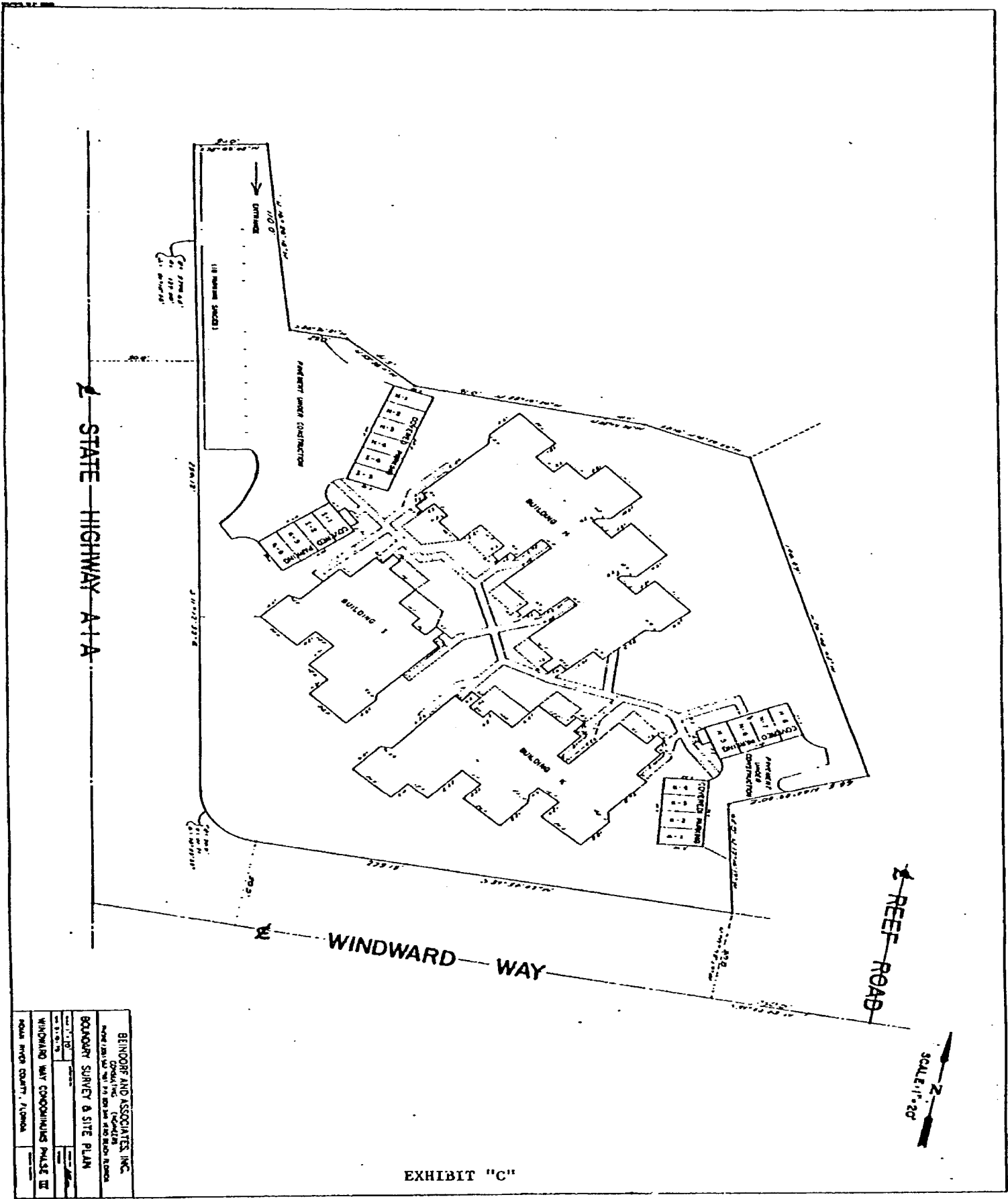
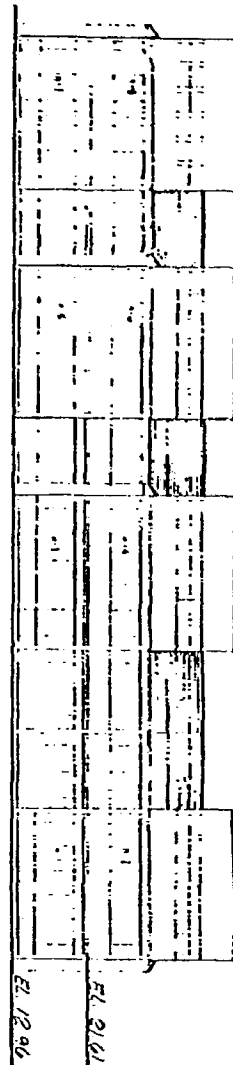


EXHIBIT "C"

BEINGORF AND ASSOCIATES, INC. 1000 W. 10TH AVENUE SUITE 100 MIAMI, FLORIDA 33135	
BOUNDARY SURVEY & SITE PLAN	
WINDWARD WAY CONDOMINIUM PHASE II	
NASSAU COUNTY, FLORIDA	

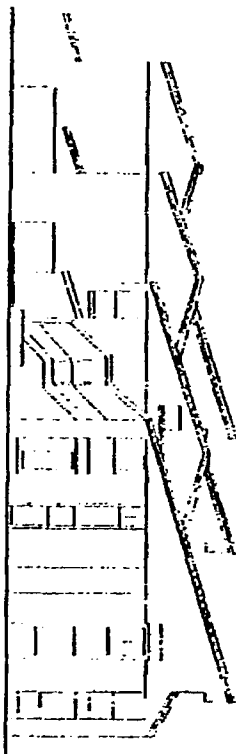
OR0888PG0784

15 JUL 11 4 5 PM '06

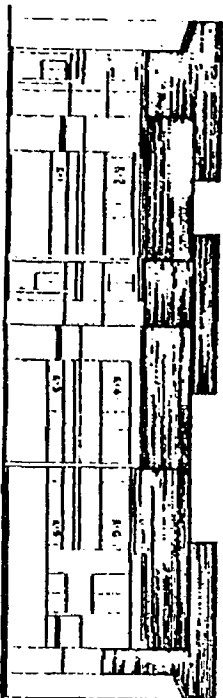


BUILDING GROUP 'U' REAR ELEVATION

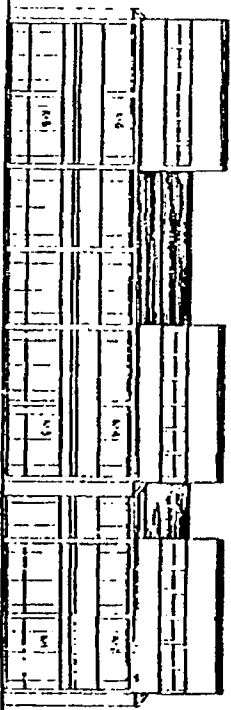
*NOTE: ELEVATION REFER TO U.S.C.G. SURVEY*



BUILDING GROUP 'K' SIDE ELEVATION



BUILDING GROUP 'K' FRONT ELEVATION

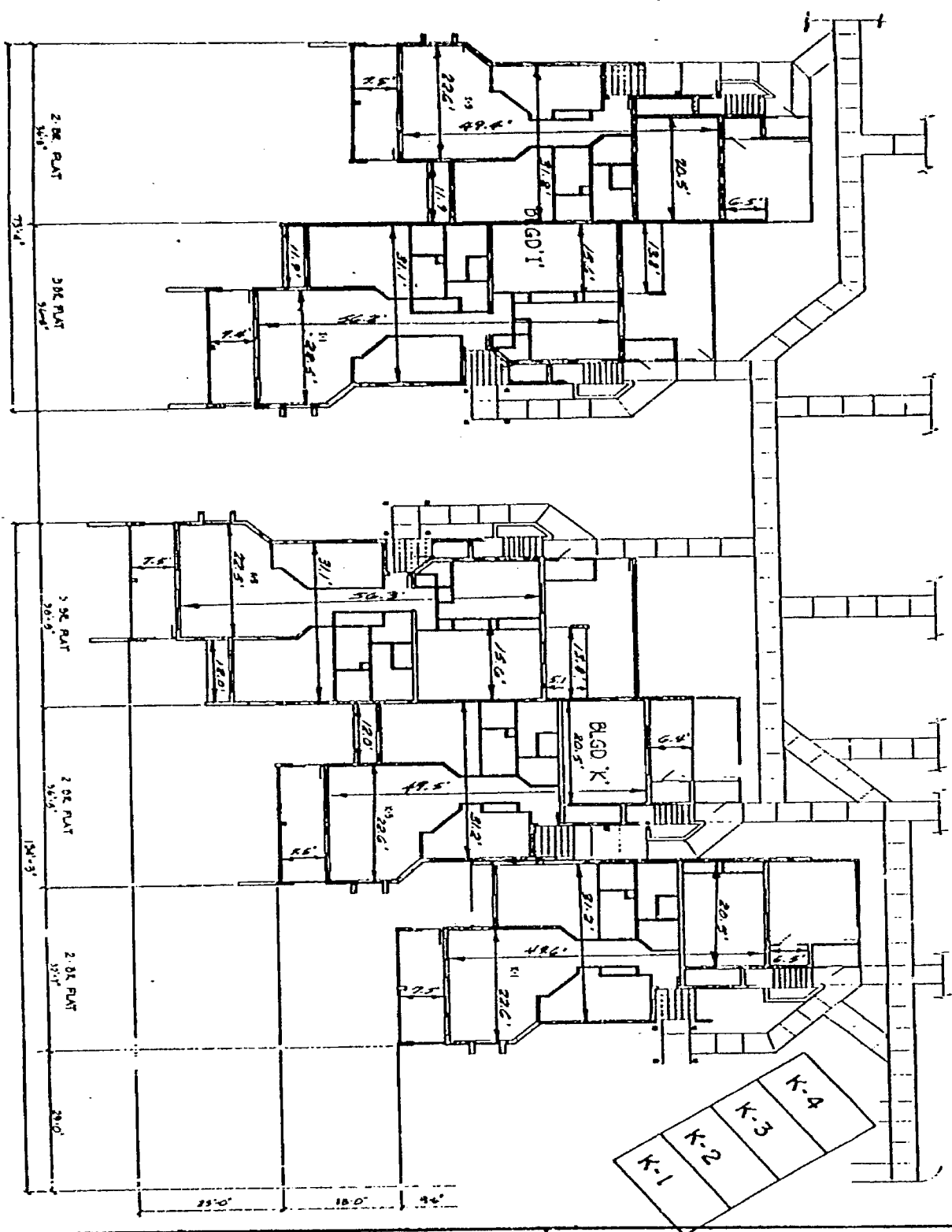


BUILDING GROUP 'K' REAR ELEVATION

**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**  
Fla.

EXHIBIT "C"



FIRST FLOOR PLAN I & K

PROJECT NUMBER	7820
DATE	28 SEP 78
SCALE	1/8" = 1'-0"
DESIGNER	ORU BOSE ARCHITECTS
CHECKER	ORU BOSE ARCHITECTS
DATE	
NO.	5
OF	12

**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**  
Fla.

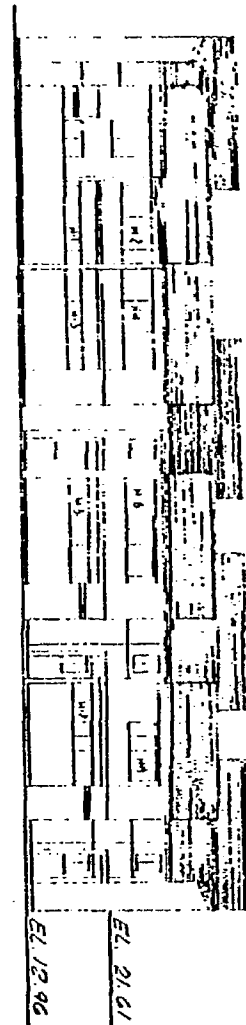
EXHIBIT "C"

ORU BOSE ARCHITECTS  
591 PAGE 0231

OR0888PG0786

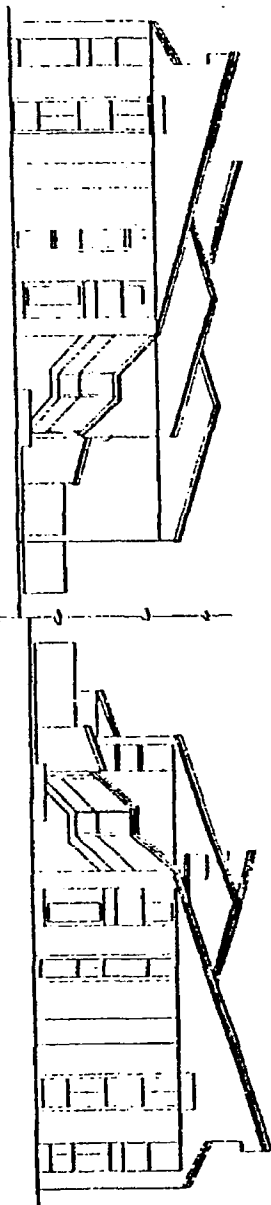


OR0888PG0788



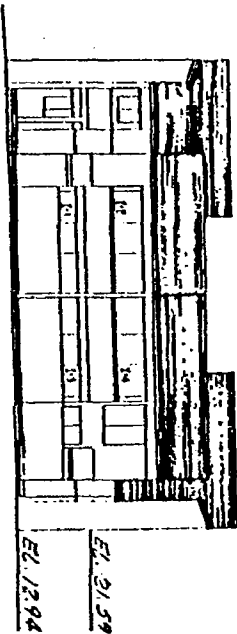
BUILDING GROUP 1/4 FRONT ELEVATION

NOTE: ELEVATIONS REFER TO U.S. C.G. SURVEY

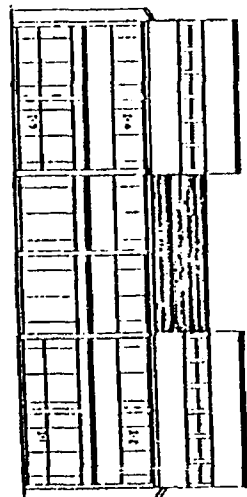


BUILDING GROUP 1/4 SIDE ELEVATION

BUILDING GROUP 1/4 SIDE ELEVATION



BUILDING GROUP 1/4 REAR ELEVATION



BUILDING GROUP 1/4 REAR ELEVATION

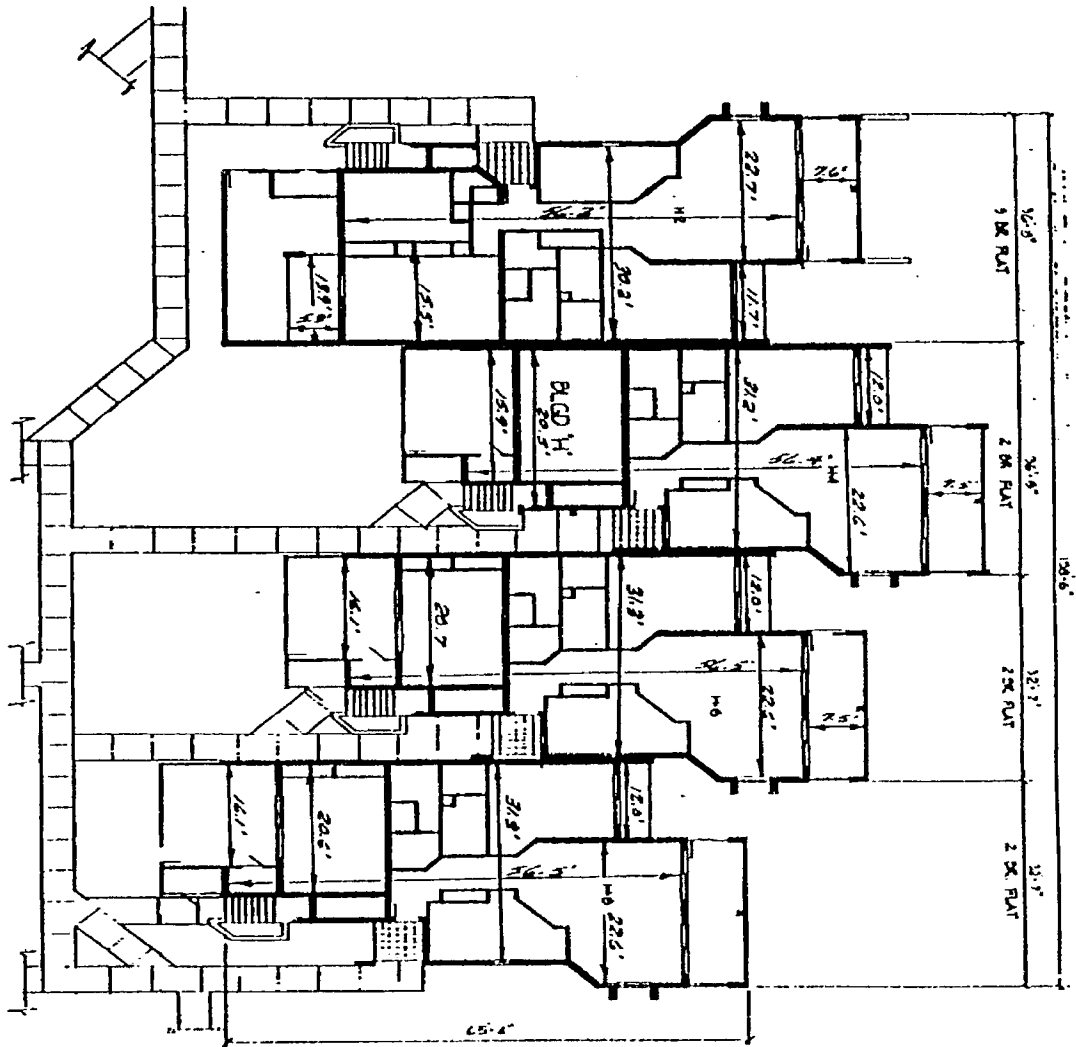
DATE	1/11/01
PROJECT NAME	VERO BEACH
CLIENT NAME	VERO BEACH
ARCHITECT	ORU BOSE ARCHITECTS
SCALE	1/8\"/>

**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**  
Fla.



INT. FLOOR CROSS



**WINDWARD**  
Orlando Beach, Fla.

**Oru Bose Architects**

EXHIBIT "C"

BOOK 59 | PAGE 0235

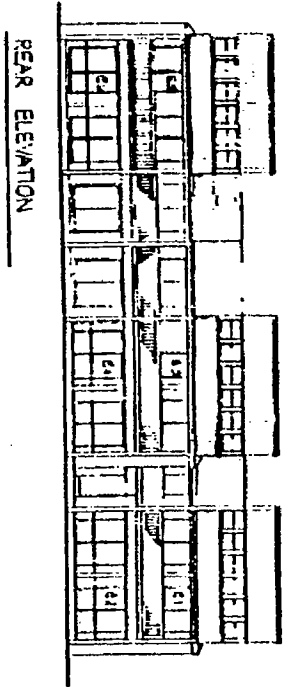
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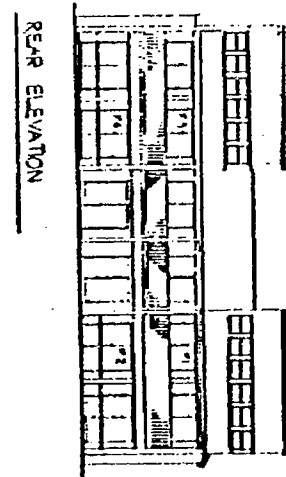




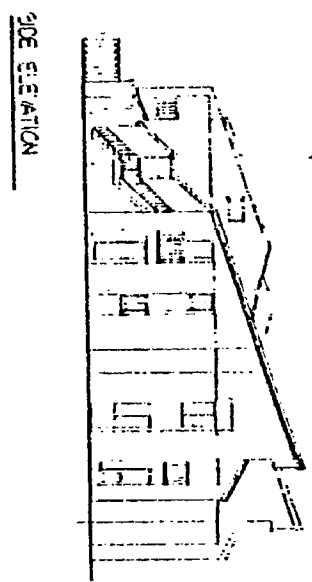




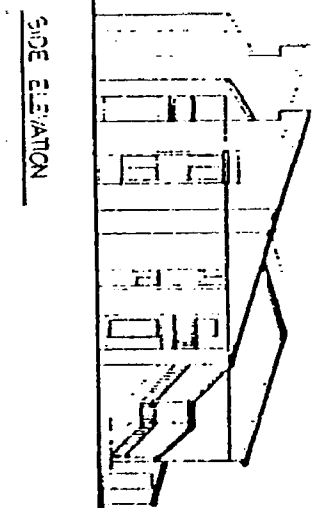
REAR ELEVATION



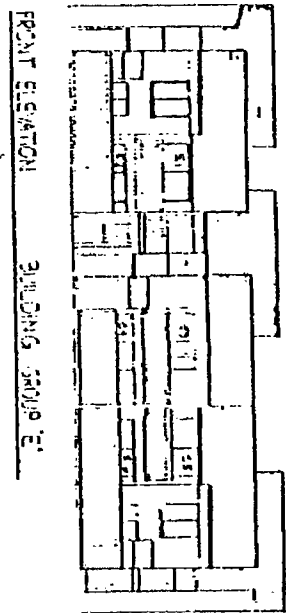
REAR ELEVATION



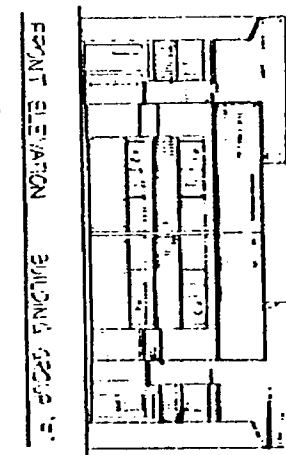
SIDE ELEVATION



SIDE ELEVATION



FRONT ELEVATION BUILDING GROUP 'B'



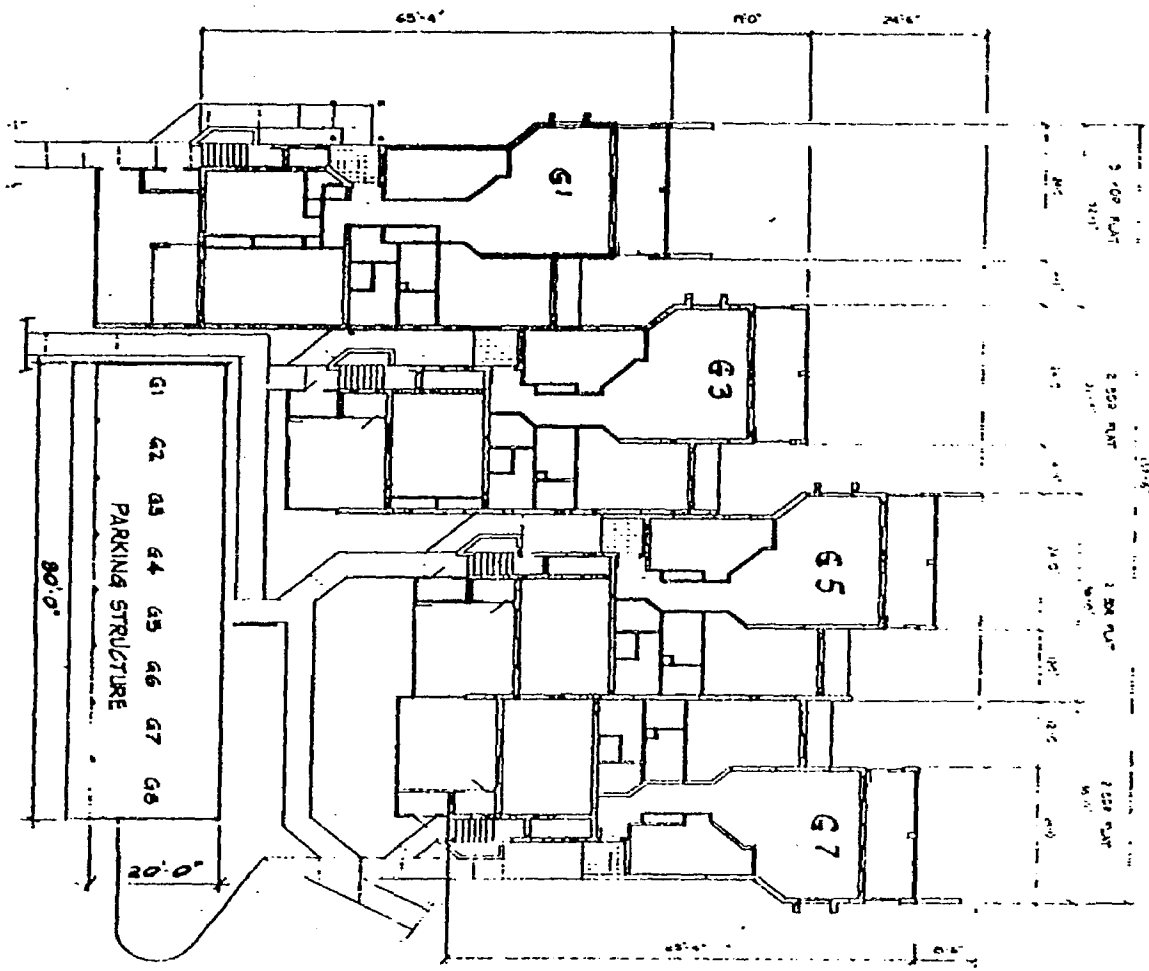
FRONT ELEVATION BUILDING GROUP 'B'



**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**

FIRST FLOOR PLAN  
BUILDING PLAN GROUP 'C'



NOTE:  
ALL DIMENSIONS ARE FOR LOCATION OF GROUP 'C'  
BASED ON THE



OR0888PG0796

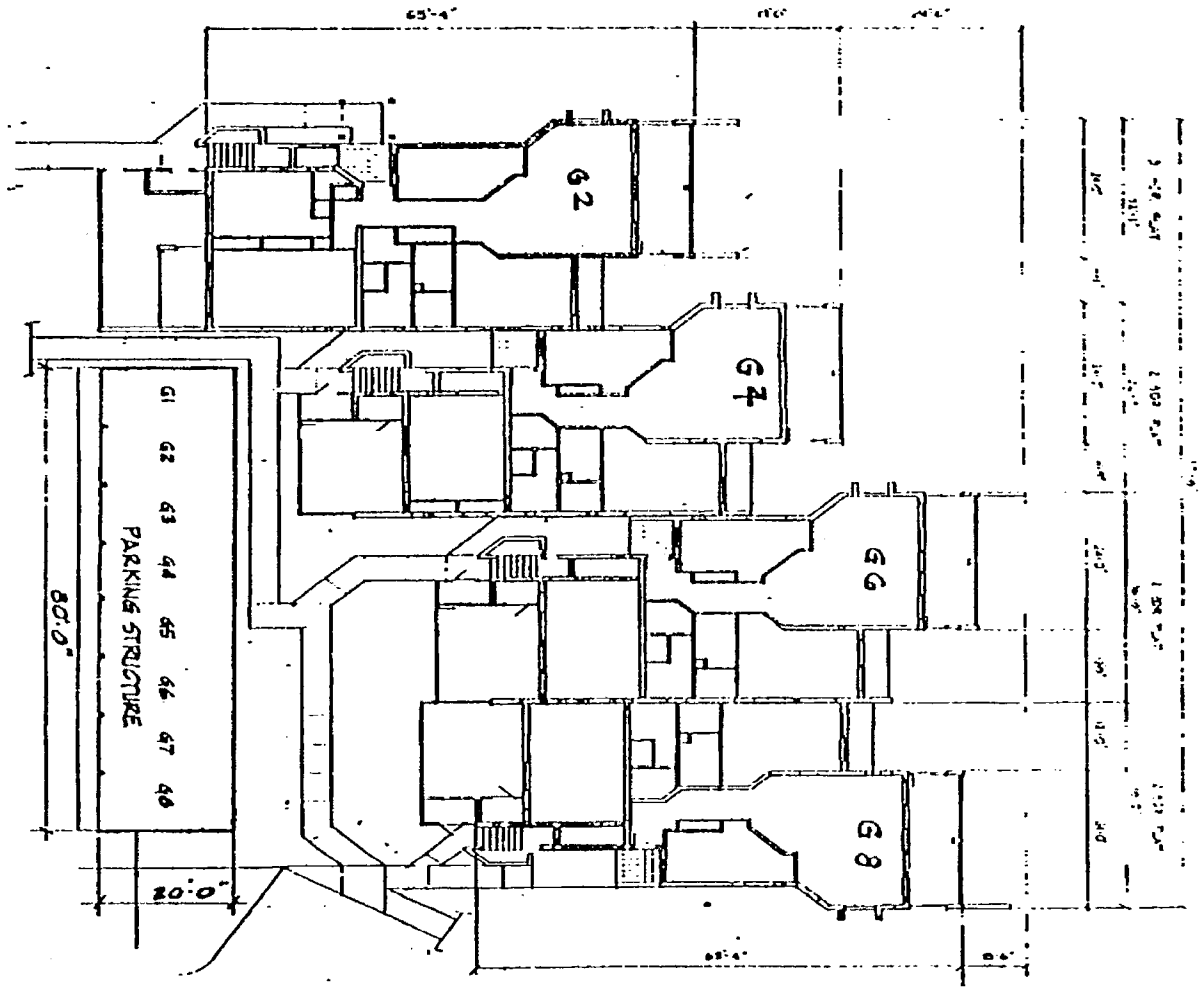
**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**

EXHIBIT "C"

JAN 25 1980

SECOND FLOOR PLAN  
BUILDING PLAN GROUP 'G'



SEE SHEET NO. 3 FOR LOCATION OF ROOMS IN  
DRAWING TITLE



DATE	4-9-78
BY	...
CHECKED	...
SCALE	...
PROJECT	...
SHEET NO.	...
TOTAL SHEETS	...

**WINDWARD**  
Vero Beach, Fla.

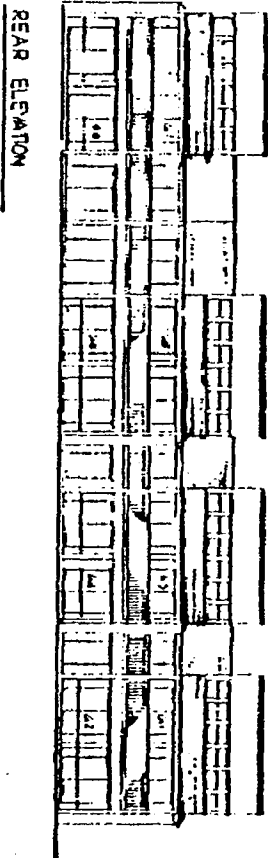
**Oru Bose Architects**

EXHIBIT "C"

JAN 25 1980

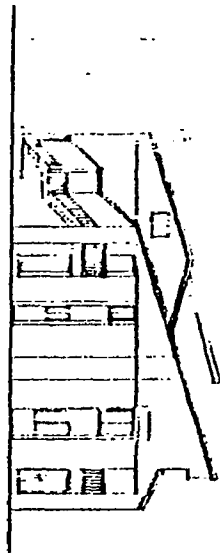
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OR0888PG0797



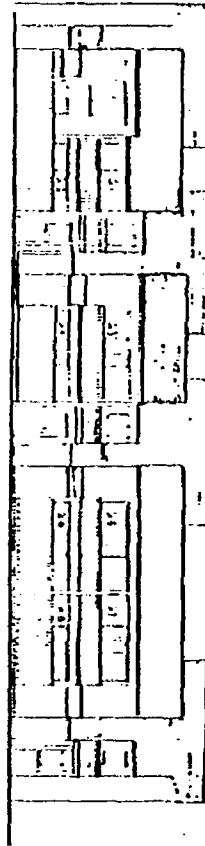
REAR ELEVATION

SIDE ELEVATION



FRONT ELEVATION

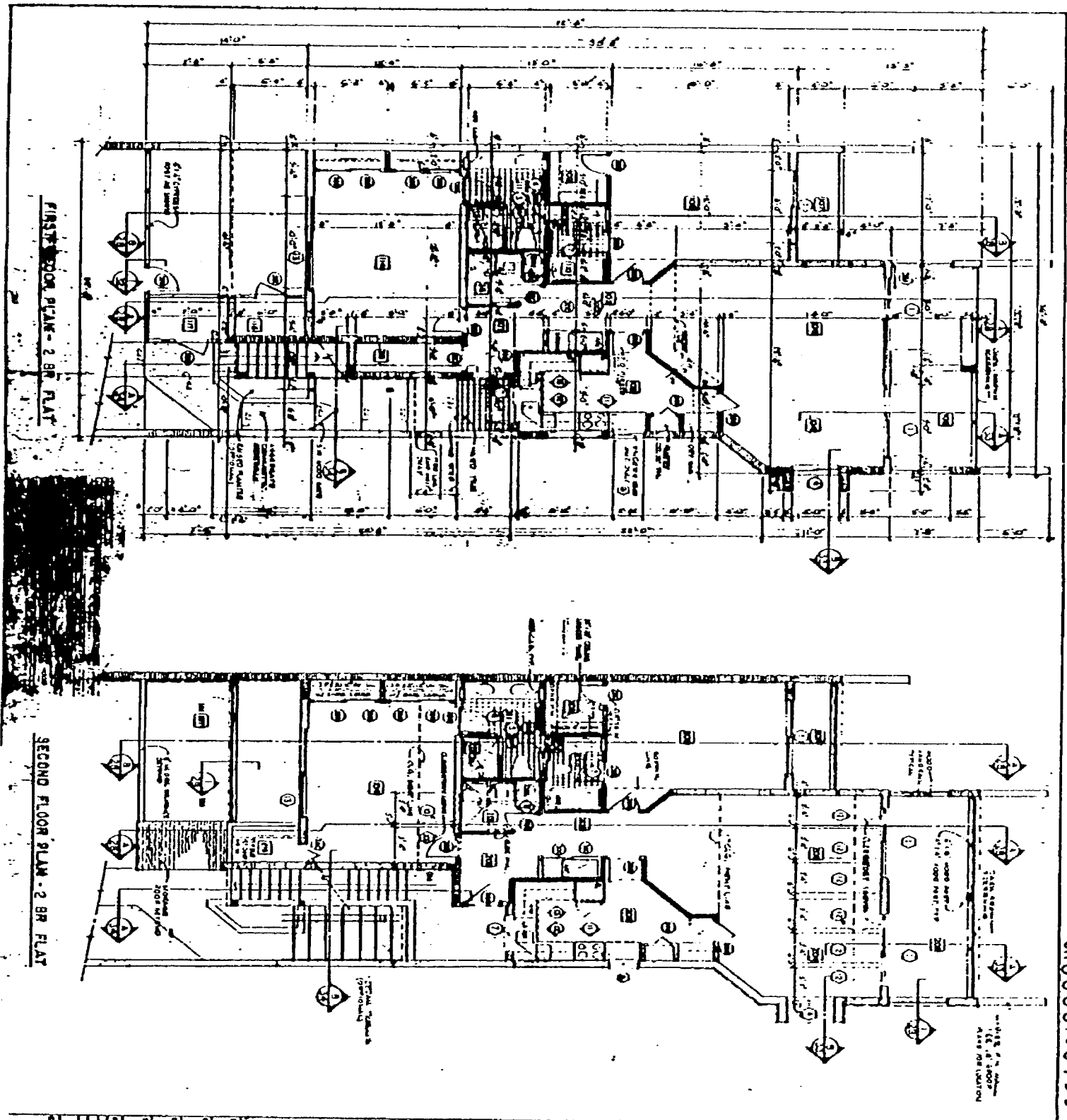
BUILDING GROUP 'G'



OR0888PG0798

**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**



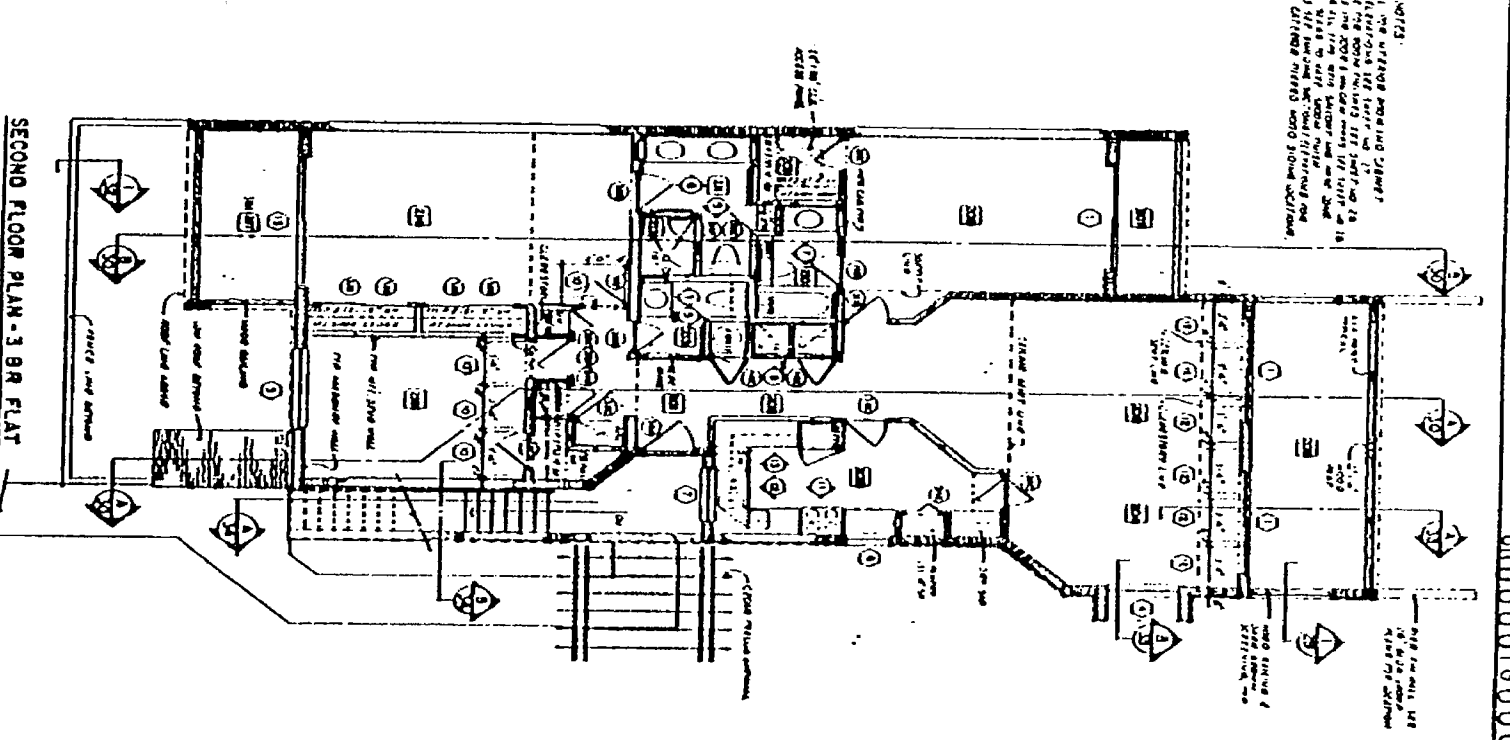
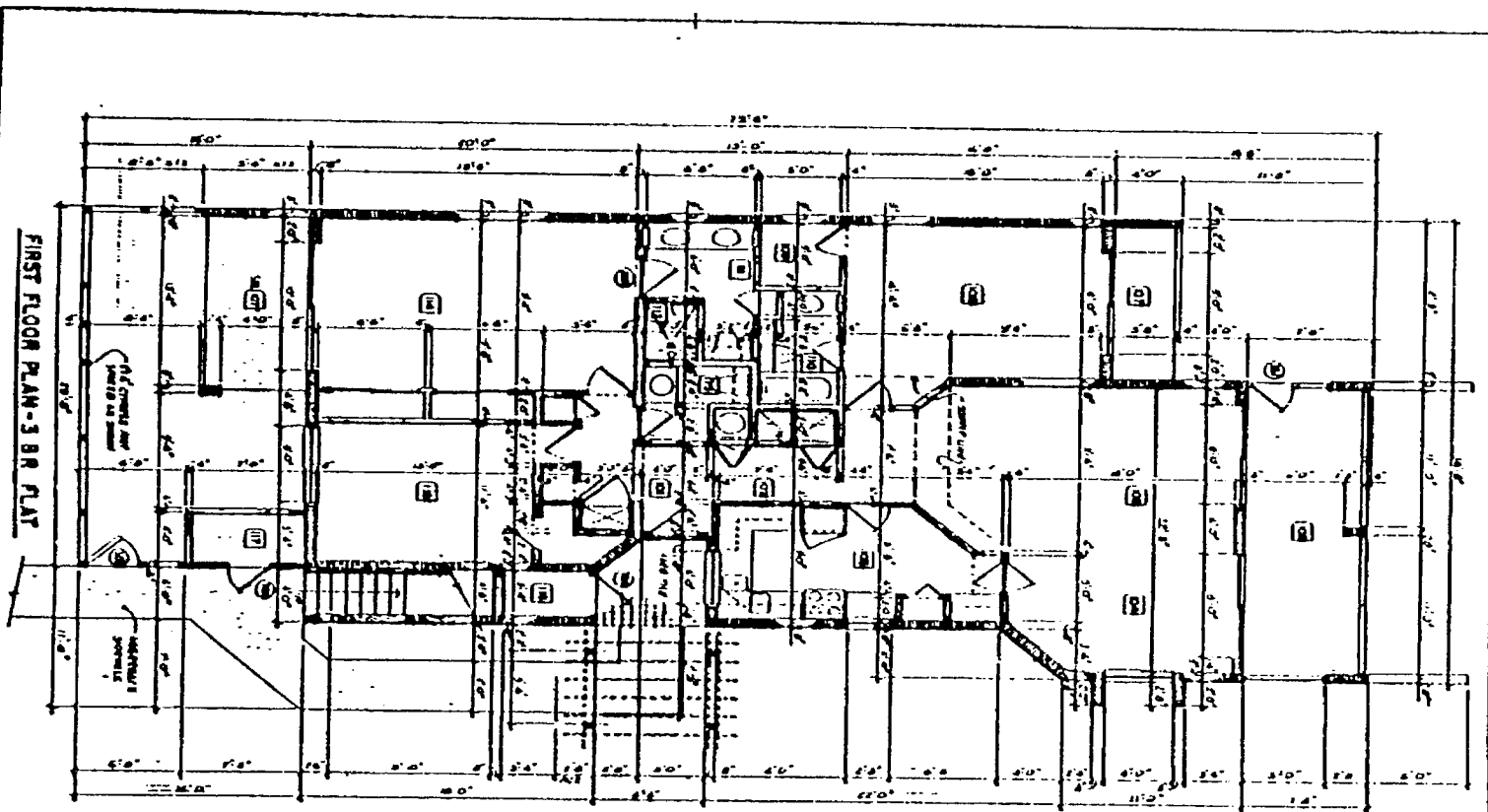
OR0888PG0799

PROJECT NUMBER	1820
DATE	26 SEP 76
SCALE	1/4" = 1'-0"
BY	ORU BOSE ARCHITECTS
CHECKED BY	ORU BOSE ARCHITECTS
DATE	26 SEP 76
PROJECT NAME	WINDWARD
ADDRESS	VERO BEACH, FLA.
OWNER	ORU BOSE ARCHITECTS
NO. OF SHEETS	8
SHEET NO.	8

**WINDWARD**  
Vero Beach, Fla.

**Oru Bose Architects**  
Altamonte Springs, Fla.

EXHIBIT "C"



NOTES:  
 1. THE WALLS ARE TO BE CONCRETE  
 2. THE ROOF IS TO BE 1 1/2" THICK  
 3. THE ROOF IS TO BE CONCRETE  
 4. THE ROOF IS TO BE CONCRETE  
 5. THE ROOF IS TO BE CONCRETE  
 6. THE ROOF IS TO BE CONCRETE  
 7. THE ROOF IS TO BE CONCRETE  
 8. THE ROOF IS TO BE CONCRETE  
 9. THE ROOF IS TO BE CONCRETE  
 10. THE ROOF IS TO BE CONCRETE

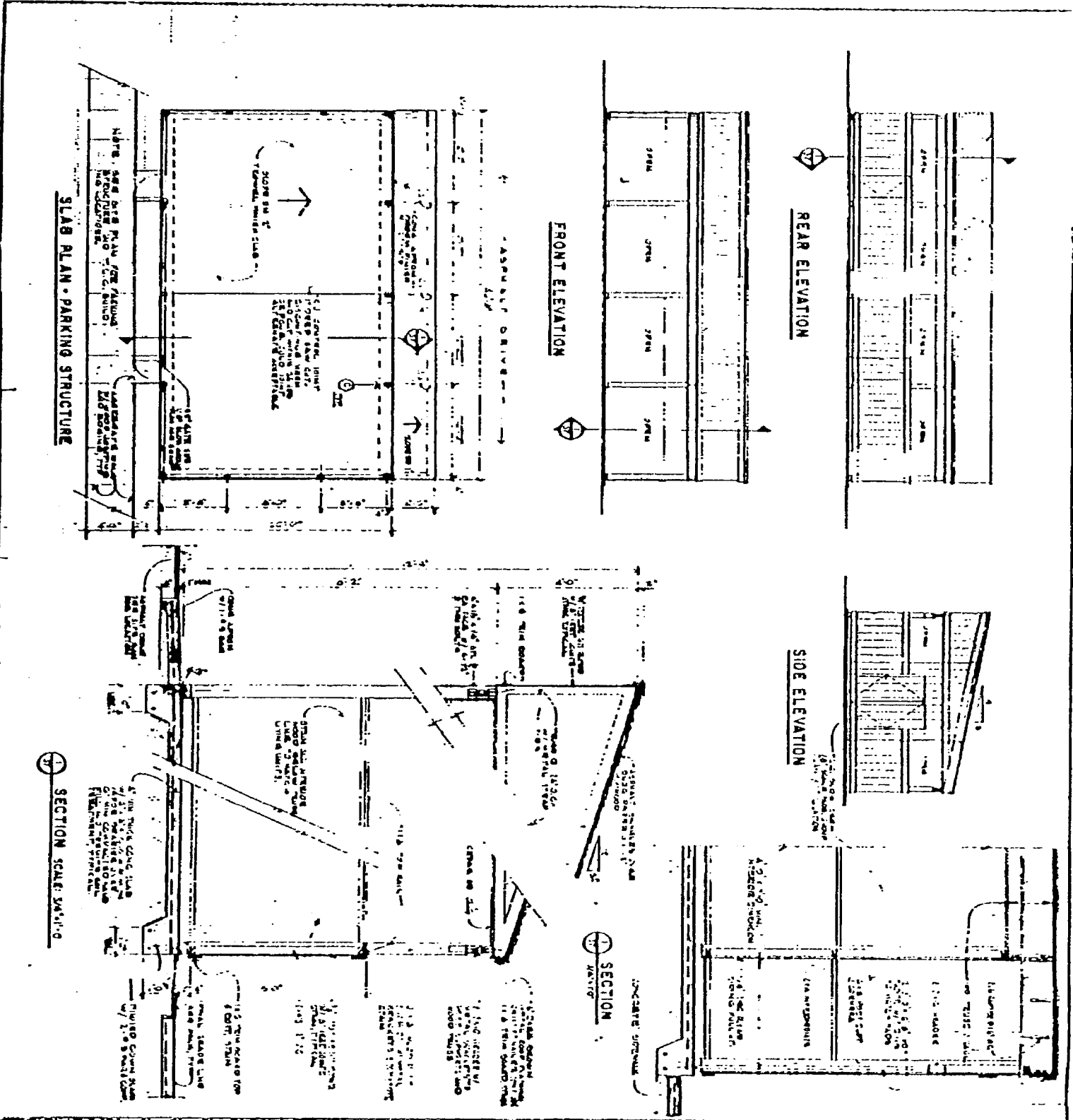
DATE	26 SEP 78
SCALE	1/8" = 1'-0"
DESIGNED BY	WINDWARD
CHECKED BY	WINDWARD
PROJECT NUMBER	14

**WINDWARD**  
 Vero Beach, Fla.

**Oru Bose Architects**  
 Altamonte Springs, Fla.

EXHIBIT "C"

OR0888PG0800



Architect

As Incorporated by Reference in Section 3.1

EXHIBIT "A"

to the Amended Declaration of Condominium Merging Windward  
Phase I, II, III and IV.

**SECOND AMENDED AND RESTATED BYLAWS**  
**OF**  
**WINDWARD CONDOMINIUM ASSOCIATION OF VERO BEACH,**  
**INC.**  
**A FLORIDA NOT-FOR-PROFIT CORPORATION**

NOTE: This document is a substantial rewording of the Bylaws of Windward Condominium Association, Inc. attached as Exhibit "F" to the Amended Declaration of Condominium Merging Windward, Phase I, II, III and IV Condominiums recorded on February 21, 1991 at Official Records Book 888, Page 739, of the Public Records of Indian River County., as amended by the Amended and Restated Bylaws of Windward Condominium Association, Inc. recorded on October 19, 2004, at Official Records Book 1791, Page 690 of the Public Records of Indian River County, Florida.

**ARTICLE 1 – GENERAL .....3**

**ARTICLE 2 – MEMBERSHIP AND VOTING PROVISIONS .....3**

**ARTICLE 3 – MEMBERSHIP MEETINGS.....4**

**ARTICLE 4 – DIRECTORS .....6**

**ARTICLE 5 – POWERS AND DUTIES .....10**

**ARTICLE 6 – OFFICERS .....11**

**ARTICLE 7 – FINANCES AND ASSESSMENTS .....13**

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**ARTICLE 1**

**GENERAL**

1.1 **The Name.** The name of the Corporation is WINDWARD CONDOMINIUM ASSOCIATION OF VERO BEACH, INC. hereinafter referred to as the "Association."

1.2 **Principal Office.** The principal office of the Corporation shall be at c/o Keystone Management Group, Inc., 780 US Highway 1, Suite 300, Vero Beach, Florida 32962, or at such other place as may be subsequently designated by the Board of Directors.

1.3 **Identity.** These Bylaws are established pursuant to the Florida Condominium Act, Chapter 718, Florida Statutes ("Act"), as amended from time to time, for the purpose of administering, operating and managing Windward Condominium, a Condominium (the "Condominium").

1.4 **Definition.** As used herein, the term "Corporation" shall be the equivalent of "Association," and all other words as used herein shall have the same definitions as attributed to them in the Amended Declaration of Condominium Merging Windward, Phase I, II, III, and IV Condominiums ("Declaration"). Any terms not defined in the Declaration shall have those definitions established by the Condominium Act.

**ARTICLE 2**

**MEMBERSHIP AND VOTING PROVISIONS**

2.1 **Membership.** Membership in this Association shall be limited to record owners of Units in the Condominium. Transfer of Unit ownership, either voluntarily or by operation of law, shall automatically terminate Membership, and the transferee shall become a Member of this Association upon the recording in the public records of the County, a deed or other similar instrument conveying title to the Unit.

2.2 **Voting.** Each Member of the Association is entitled to one (1) vote for each Unit owned by him/her. The total number of possible votes (the "Voting Interests") shall equal the total number of Units, which is sixty-five (65) units. Said votes shall be exercised or cast in the manner provided by the Declaration and these Bylaws. The vote of a Unit shall not be divisible. Unless otherwise set forth in the Declaration of Condominium, the Articles of Incorporation, herein or in the Act, matters shall be voted on by the Membership of the Association and shall be determined by a vote of a majority of the voting interests ("Voting Interests") present and voting, in person or by proxy, at any meeting at which a quorum is established, or by written agreement.

2.3 **Quorum.** Unless otherwise provided in these Bylaws, the presence in person or by proxy of persons entitled to cast thirty percent (30%) of the votes of the entire Membership of the Association shall constitute a quorum for the Annual and Special Members' meetings. A quorum is not required for elections pursuant to Section 4.2 hereof.

2.4 **Voting Procedure.** Votes may be cast in person, by written agreement, by proxy or by any other means permitted by law, including electronic voting. All proxies shall be in writing, signed by the person entitled to vote, shall be filed with the Secretary of the Association prior to or at the

meeting at which they are to be used, or prior to or at any lawful adjournment thereof, and shall be effective only for the specific meeting for which originally given and any lawful adjournment thereof.

2.5 **Designation of Voting Member.** If a Unit is owned by one or more persons, their right to vote shall be established by the record title to the Unit and anyone of them may cast the vote for the Unit. If two or more Owners of a Unit do not agree among themselves how their one vote shall be cast, that vote shall not be counted. If a Unit is owned by a trust or other entity, the trustee or corporate representative or managing member shall designate the representative, officer, employee or agent entitled to cast the Unit's vote by executing a certificate to be filed with the Secretary of the Association, signed by its authorized representative. The person designated in any such certificate shall be known as the Voting Member. If, for a Unit owned by a trust or other permitted entity, such certificate is not on file with the Secretary of the Association, the vote of the Unit shall not be counted in determining the presence of a quorum, or for any purpose requiring the approval of the person entitled to cast the vote for the Unit. Such certificate shall be valid until revoked or superseded by a subsequent certificate, or until a change occurs in the ownership of the Unit. The requirement for the designation of the corporate representative entitled to cast the Unit's vote shall apply only to Owners of Units as of the date the Second Amended and Restated Declaration of Condominium is recorded, transferring title of their Unit to a business entity.

### ARTICLE 3

#### **MEMBERSHIP MEETINGS**

3.1 **Place.** All meetings of Members shall be held at the principal office of the Association or at such other place and at such time as shall be designated by the Board and stated in the notice of meeting.

3.2 **Notices.** It shall be the duty of the Secretary, or his designee, to send by regular mail, hand delivery or electronic transmission a notice of each annual or special meeting to each Unit Owner and to post a copy of said notice in a conspicuous place on the property at least fourteen (14) continuous days but not more than sixty (60) days prior to such meeting. Notice of any meeting shall list the time, place and purpose thereof and shall incorporate an identification of agenda items. All notices shall be mailed, hand delivered or sent by electronic transmission to the address last furnished to the Association by the Unit Owner as it appears on the books of the Association to each Unit Owner. Proof of posting, delivery or mailing of the notice (if required) shall be given by the affidavit of the person serving the notice.

3.3 **Annual Meeting.** The annual meeting for the purpose of electing directors and transacting any other authorized business shall be held during the month of December at such date and time as shall be selected by the Board of Directors. At the annual meeting, the Members shall elect a Board by plurality vote (cumulative voting prohibited) and shall transact such other business as may be properly brought before the meeting.

3.4 **Special Meeting.** Special meetings of the Members for any purpose, unless otherwise prescribed by statute, may be called by the President, or shall be called by the President or Secretary at the request, in writing, of a majority of the Board of Directors or at the request, in writing, of Members representing one-fourth (1/4) of the total Voting Interests in the Association. Such requests shall state the purpose of the proposed meeting.

3.5 **Action by Members Without a Meeting.** Notwithstanding anything herein to the contrary, any action required or permitted to be taken at any annual or special meeting of Members may be taken by written agreement without a meeting, signed by the Members (or persons authorized to cast the vote of any such Members as elsewhere herein set forth), so long as at least a quorum of the Members participates and so long as the number of votes required to authorize or approve such action is obtained. Voting by written agreement shall be done in accordance with the provisions of the applicable statute, as same may be amended from time to time.

3.6 **Adjourned Meeting.** If any meeting of Members cannot be organized because a quorum is not present, either in person or by proxy, the meeting shall be adjourned from time to time until a quorum is present. If any agenda item at a meeting of the Members cannot be approved because approval of more than a quorum of the Members is required but such required percentage is not present or is not achieved, the meeting may be adjourned from time to time until the requisite vote is achieved.

3.7 **Order of Business.** The order of business at annual Members' meetings and as far as practical at other Members' meetings, shall be:

- A. Calling to order by President or Chairman;
- B. Appointment of chairman of the meeting by the President or, in his absence, by a majority of the Board of Directors. The chairman may be the attorney for the Association or a representative of the Association's management company who will conduct the meeting without vote;
- C. Appointment of inspectors of election;
- D. Election of directors;
- E. Calling of the roll and certifying of proxies;
- F. Proof of notice of the meeting or waiver of notice;
- G. Reading and disposal of any unapproved minutes;
- H. Reports of officers;
- I. Reports of committees;
- J. Unfinished business;
- K. New business;
- L. Adjournment.

3.8 **Minutes of Meetings.** The minutes of all meetings of the Membership shall be kept in a book available for inspection by Members and/or their authorized representatives at any reasonable time. Member(s) of the Association shall have a right to inspect the minutes in accordance with the Condominium Act. The Board of Directors shall establish any costs associated with the inspection or copying of the minutes in accordance with the Condominium Act.

## ARTICLE 4

### DIRECTORS

4.1 **Membership.** The affairs of the Association shall be managed by a Board of seven (7) Directors. All Directors shall be Members of the Association or an immediate family member of a Member who resides in the Unit unless the Member objects to the family member serving as a Director. If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, or otherwise, a majority of the remaining directors or the remaining director, though less than a quorum, shall choose a successor who shall hold office for the balance of the unexpired term of office.

4.2 **Election of Directors.** Election of directors shall be conducted in the following manner:

A. Election of directors shall be held at the annual Members' meeting.

B. The Board of Directors shall be elected by written ballot or electronic vote. Proxies shall not be used in the election of the Board of Directors, either in general elections or elections to fill vacancies, except for vacancies caused by the recall of a majority of the Board. No Unit Owner shall permit any other person to vote his or her ballot, and any such ballots improperly cast shall be deemed invalid. Elections shall be decided by a plurality of those ballots cast. Cumulative voting is prohibited. There shall be no quorum requirement; provided, however, at least twenty percent (20%) of the eligible votes must cast a ballot in order to have a valid election.

C. Written notice of the scheduled election shall be mailed, hand delivered or electronically transmitted to each Member at his last known address as it appears on the books of the Association. The first notice of the date of the election shall be mailed, hand delivered or electronically transmitted to each Member not less than sixty (60) days before the scheduled election. The first notice must contain the name and correct mailing address of the Association.

D. Any Unit Owner or other eligible person desiring to be a candidate for the Board shall give written notice to the Association not less than forty (40) days before the scheduled election. Written notice shall be effective when received by the Association.

E. Upon the timely request of the candidate as set forth in this subparagraph, the Association shall include, with the second notice of election described in Paragraph F below, a copy of an information sheet which may describe the candidate's background, education and qualifications as well as any other factors deemed relevant by the candidate. The information sheet shall not exceed one side of a sheet which shall be no larger than eight and one-half (8-1/2) by eleven (11) inches. Any candidate desiring the Association to mail or personally deliver copies of an information sheet to the eligible voters must furnish the information sheet to the Association not less than thirty-five (35) days before the election. The Association is not liable for the contents of the information sheets prepared by the candidates. The Association shall not edit, alter or otherwise modify the content of the information sheet. The original copy provided by the candidate shall become part of the official records of the Association.

F. Not less than fourteen (14) days before the scheduled election, the Association shall mail, deliver or electronically transmit to the eligible voters at the addresses listed in the official records of the Association a second notice of the election, together with a ballot and any information sheets timely submitted by the candidates. Each Unit shall receive one (1) ballot. The second notice and accompanying documents shall not contain any communication by the Board which endorses, disapproves or otherwise comments on any candidate. Accompanying the ballot shall be an outer envelope addressed to the person or entity authorized to receive the ballots and a smaller inner envelope in which the ballot shall be placed. The exterior of the outer envelope shall indicate the name of the voter and the Unit or Unit numbers being voted and shall contain a signature space for the voter. Once the ballot is completed, the voter shall place the completed ballot in the inner smaller envelope and seal that envelope. The inner envelope shall then be placed within the larger outer envelope and the outer envelope shall then be sealed. Each inner envelope shall contain only one ballot, but if a person owns more than one Unit and is, therefore, entitled to cast more than one ballot, the separate inner envelopes required may be enclosed within a single outer envelope. The voter shall sign the exterior of the outer envelope in the space provided for his or her signature. The outer envelope shall either be mailed or hand delivered to the Association. Upon receipt by the Association, no ballot may be rescinded or changed.

G. The written ballot shall indicate in alphabetical order by surname, each and every Unit Owner or other eligible person who desires to be a candidate for the Board and who gave written notice to the Association not less than forty (40) days before a scheduled election, unless such person has, prior to the mailing of the ballot, withdrawn his candidacy in writing. Envelopes containing ballots received by the Association shall be retained and collected by the Association and shall not be opened except in the manner hereinafter provided and in accordance with the Florida Condominium Act.

H. Any envelopes containing ballots not pre-validated as provided in subsection 4.2(I) below shall be collected by the Association and shall be transported to the location of the election. An impartial committee of persons appointed by the Board shall validate and process the ballots. The Association shall have available additional blank ballots at the meeting for distribution to the eligible voters who have not cast their votes. Each ballot distributed at the meeting shall be placed in an inner and outer envelope as provided in subsection 4.2(F) hereof. At the meeting, as the first order of business, ballots not yet cast shall be collected. Next, the signatures and Unit identifications on the outer envelopes shall be checked against the list of qualified voters, unless previously verified as set forth in subsection 4.2(I) below. Any exterior envelope not signed by the eligible voter shall be marked "disregarded" and any ballots contained therein shall not be counted. The voters shall be checked off on the list as having voted. Then, in the presence of any Unit Owners in attendance, and regardless of whether a quorum is present, all inner envelopes shall be first removed from the outer envelopes and shall be placed in a receptacle. Upon the commencement of the opening of the outer envelopes, the polls shall be closed, and no more ballots shall be accepted. Inner envelopes shall then be opened and the ballots shall be removed and counted in the presence of any Unit Owners. Any inner envelopes containing more than one ballot shall be marked "disregarded" and any ballots contained therein shall not be counted. All envelopes and ballots, whether disregarded or not, shall be retained as part of the official records of the Association for such time period as may be required by the Act. Board members whose terms expire and who are not reelected shall relinquish their Board positions, and those positions shall be assumed by the duly elected Board members.

I. The Association may verify outer envelope information in advance of the meeting by following the procedure set forth in Section 718.112(2)(d)(3), Florida Statutes, and Section 61 B-23.0021 (10), Florida Administrative Code.

J. The Board shall not create or appoint any committee for the purpose of nominating a candidate or candidates for election to the Board. However, the Board may create or appoint a search committee which shall not have the authority to nominate any candidate, but may encourage eligible and qualified persons to become candidates for the Board.

4.3 **Organizational Meeting.** The organizational meeting of a newly elected Board shall be held either immediately after their selection or within ten (10) days of the election. Notice of such organizational meeting; which notice specifically incorporates an identification of agenda items, shall be posted conspicuously on the Condominium property at least 48 continuous hours preceding the meeting, except in an emergency.

4.4 **Term.** Directors shall be elected to serve two (2) year terms. Directors are elected on a staggered basis pursuant to the Amended and Restated Bylaws of Windward Condominium Association, Inc. recorded on October 19, 2004, at Official Records Book 1791, Page 690 of the Public Records of Indian River County, Florida. The Members shall elect approximately half of the number of Directors each year. If two (2) or more candidates receive the same number of votes, the Association shall conduct a run-off election in accordance with the procedure set forth in the Florida Administrative Code for condominium run-off elections.

4.5 **Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings shall be given to each director, personally or by mail, telephone, facsimile, or electronic mail, and shall be transmitted at least forty-eight (48) hours prior to the meeting. Regular meetings of the Board and only those committee meetings which committees have the authority to take final action on behalf of the Board or make recommendations to the Board regarding the Association budget, shall be open to all Unit Owners, and notice of such meetings shall be posted conspicuously at the Condominium forty-eight (48) continuous hours preceding the meeting for the attention of the Members of the Association except in the event of an emergency. However, written notice of any meeting at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be proposed, discussed or approved, shall be mailed, hand delivered or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice requirement shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association.

The right of a Member to attend regular Board meetings includes the right to speak at such meetings with reference to all designated agenda items. A Member does not have the right to speak with reference to items not specifically designated on the agenda, but the Board, in its discretion, may permit a Member to speak on such items. The Board may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner statements.

4.6 **Special Meetings.** Special meetings of the directors may be called by the President or, in his absence, by the Vice President, and must be called by the President or Secretary at the written request of four (4) of the directors. Notice of the meeting shall be given personally or by mail, telephone, facsimile, or electronic mail, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than forty-eight (48) hours prior to the meeting. Special meetings of the Board shall be open to all Unit Owners, and notice of a special meeting shall be posted conspicuously forty-eight (48) continuous hours in advance for the attention of the Members of the Association except in the event of an emergency. However, written notice of any special

meeting at which non-emergency special assessments, or at which amendments to rules regarding Unit use will be proposed, discussed or approved, shall be mailed, hand delivered or electronically transmitted to the Unit Owners and posted conspicuously on the Condominium property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice requirement shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Notice of any meeting where assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature and estimated amount of any such assessments.

4.7 **Minutes of Meetings.** The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Members and/or their authorized representatives at any reasonable time. Member(s) of the Association shall have a right to inspect the minutes in accordance with the Condominium Act. The Board of Directors shall establish any costs associated with the inspection or copying of the minutes in accordance with the Condominium Act.

4.8 **Waiver of Notice.** Any director may waive notice of a meeting before 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 such 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.

4.9 **Quorum and Voting.** A quorum at Board of Directors meetings shall consist of a majority of the entire Board. 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, except when approval by a greater number of directors is required by the Declaration, the Articles or these Bylaws. Directors may not vote by proxy or secret ballot at Board meetings, except, if allowed by statute, for election of officers. A vote or abstention for each director present shall be recorded in the minutes. A director of the Association who abstains from voting on any action taken by the Board shall be presumed to have taken no position with regard to the action taken. Directors may meet by telephone conference or other communication and virtual platforms and those attending by telephone conference/communication and virtual platforms may be counted toward a quorum and may vote by telephone or other communication and virtual platforms, provided the Board members attending by telephone or communication or virtual platforms may be heard by the Board and any other person attending the meeting.

4.10 **Adjourned Meetings.** If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time 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 without further notice.

4.11 **Presiding Officer.** The presiding officer of the directors' meetings shall be the President, his or her designee or, in the absence of the President, the Vice-President or his or her designee. In the absence of the President or Vice-President, the directors present shall designate one of their number to preside or designate the attorney of the Association or a representative of the Association's management company to act as chairman.

4.12 **Order of Business.** The order of business at directors' meetings shall, to the extent practical, be:

- A. Calling of roll;

- B. Proof of due notice of meeting;
- C. Reading and disposal of any unapproved minutes;
- D. Reports of officers and committees;
- E. Unfinished business;
- F. New business;
- G. Adjournment.

4.13 **Compensation.** Directors shall not be entitled to compensation for their services. No director, officer or manager required to be licensed under Florida Statutes Section 486.432 shall solicit, offer to accept, or accept any thing or service of a value for which consideration has not been provided for his own benefit or that of his immediate family, from any person providing or proposing to provide goods or services to the Association. Any such individual who knowingly solicits, offers to accept, or accepts anything or service of value is subject to a civil penalty pursuant to Florida Statutes Section 718.501(1)(d).

4.14 **Resignation.** Any Board member may resign at any time at a Board or Members' meeting or by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date. The acceptance of a resignation shall not be required to make it effective.

4.15 **Committees.** Any committee formed for the purpose of assisting in the promulgation of a budget or any committee that is delegated the authority to take final action on behalf of the Association shall conduct its meetings in accordance with the procedural requirements applicable to Board of Directors' meetings, set forth in Section 4.6 hereof. All other committee meetings shall be exempt from those requirements.

## ARTICLE 5

### POWERS AND DUTIES

The Board exercise all powers and duties of the Association under Chapters 617 and 718, Florida Statutes, the Declaration of Condominium, Articles of Incorporation and Bylaws, except where a vote of the Members is specifically required. Such powers and duties of the Board shall include, without limitation (except as limited elsewhere herein and to the extent that same is in accordance with Chapter 718, Florida Statutes) the following:

- A. Operation, care, upkeep and maintenance of the Common Elements and facilities.
- B. Determination and adoption of the annual budget of Common Expenses required for the operation of the Condominium and the Association.
- C. Levying and collection of regular and special Assessments for Common Expenses from Unit Owners required to pay same.

D. Employment and dismissal of the personnel necessary for the maintenance and operation of the Common Elements and facilities.

E. Adoption and amendment of the rules and regulations covering the details of the operation and use of Condominium Property and facilities.

F. Maintaining of bank accounts on behalf of the Association and the designation of the signatories required therefore.

G. Purchasing, leasing or otherwise acquiring of Units in the name of the Association, or its designee, subject to the limitations in the Articles of Incorporation.

H. Purchase of Units at foreclosure or other judicial sales, in the name of the Association or its designee.

I. Selling, mortgaging or otherwise dealing with Units acquired by the Association or its designee.

J. Organization of Corporations to act as designees of the Association in acquiring title to Units or leasing Units by the Association.

K. Obtaining and reviewing insurance for the Condominium Property.

L. Making repairs, additions and improvements to, or alterations of, the Condominium property, and repairs to and restoration of the Condominium Property, in accordance with the provisions of the Declaration.

M. Enforcement of the obligations of the Unit Owners, the allocation of profits and expenses, and the performance of anything and everything else necessary and proper for the sound management of the Condominium.

N. Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Common Elements subject to the limitations declared in the Declaration.

O. Contracting for the management of the Condominium and the delegation to such manager such powers and duties of the Board as the Board may deem appropriate in the circumstances, and contracting for the management or operation of portions of the Condominium Property susceptible to separate management or operation thereof, and the granting of concessions for the purpose of providing services to the Unit Owners.

## ARTICLE 6

### OFFICERS

6.1 **Executive Officers.** The executive officers of the Association shall be a President, one or more Vice Presidents, Secretary, and Treasurer, all of whom shall be members of the Board and

shall be elected by and serve at the pleasure of the Board. Any two of said offices may be united in one person, except that the President shall not also be the Secretary.

6.2 **Election.** The Board, at its first meeting after each annual meeting of general Members, shall elect all officers.

6.3 **Term.** The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the whole Board.

6.4 **The President.** The President shall be the chief executive officer of the Association. Subject to the provisions of 4.11 hereinabove, the President shall preside at all meetings of Members and of the Board, shall exercise the executive powers of the Association and have general supervision over its affairs and other officers, and shall perform all of the duties incident to the office and such other duties as may be delegated to the President from time to time by the Board.

6.5 **The Vice President.** The Vice President shall perform all of the duties of the President in the absence of the President, and such other duties as may be required by the Board. If the Board elects more than one Vice President, the order of succession shall be determined by the Board.

6.6 **The Secretary.** The Secretary or assistant Secretary shall issue notices of all Board meetings and all meetings of Members, shall attend and keep the minutes of same, and shall have charge of all of the books of the Association as well as its records and papers, except those kept by the Treasurer. All minutes shall be kept in a businesslike manner and shall be available for inspection by Unit Owners as set forth in the Act.

6.7 **The Treasurer.**

A. The Treasurer shall have custody of the Association's funds and securities, shall keep full and accurate accounts of the Association's receipts and disbursements, and shall deposit all monies and other valuable effects in the name of, and to the credit of, the Association in such depositories as may be designated by the Board. The books shall reflect an account for each Unit in the manner required by the Act.

B. The Treasurer shall disburse the funds of the Association as may be ordered by the Board, making proper vouchers for such disbursements, and shall render an account of all his or her transactions as the Treasurer, and of the financial condition of the Association to the Board whenever it may require it.

C. The Treasurer shall collect all assessments and shall report promptly to the Board the status of collections.

D. The Treasurer shall maintain accounting records according to good accounting practices and shall render to Unit Owners or their authorized representatives, at least annually, a written summary of the Association's fiscal activities.

6.8 **Compensation.** Officers shall not receive compensation for their services.

6.9 **Resignations.** Any officer may resign at any time at a Board or Members' meeting or by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date. The acceptance of a resignation shall not be required to make it effective.

## ARTICLE 7

### **FINANCES AND ASSESSMENTS**

7.1 **Depositories.** The funds of the Association shall be deposited in such banks and depositories as may be determined and approved by appropriate resolutions of the Board. Funds shall be withdrawn only upon checks and demands for money signed by such officer(s) or agent(s) as may be designated by the Board.

7.2 **Fiscal Year.** The fiscal year of the Association shall begin on the first day of January of each year; provided, however that the Board, whenever it deems it advisable, is expressly authorized to change to a different fiscal year in accordance with the applicable provisions of the Internal Revenue Code.

7.3 **Determination of Assessments.**

A. The Board of Directors shall fix and determine the sum or sums necessary and adequate to assess Unit Owners for their share of the Common Expenses set forth in the budget for the Association and the Condominium. Funds for the payment of Common Expenses shall be assessed against Unit Owners as provided in the Declaration of Condominium. Assessments shall be payable not less frequently than quarterly and shall be due on the first day of each quarter or month unless otherwise ordered by the Board. Assessments shall be made against Unit Owners in an amount not 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. Special Assessments, if necessary, shall be levied in the manner provided in the Act and shall be payable in the manner determined by the Board. All funds due under these Bylaws and the Declaration are Common Expenses. The Board of Directors has the authority and right to accelerate the due date of the entire unpaid balance of the Unit's annual assessment for that fiscal year and/or special assessment if any annual or special assessment installment becomes more than thirty (30) days past due. The accelerated assessment shall be due and payable upon notice to the Unit Owner from the Association.

B. Any meeting at which a proposed annual budget of the Association or an amendment thereto will be considered by the Board shall be open to all Unit Owners. At least fourteen (14) days prior to such a meeting, the Board shall mail, hand deliver or electronically transmit to each Unit Owner at the address last furnished to the Association by the Unit Owner, a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the Association or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with such notice requirement and such affidavit shall be filed among the official records of the Association.

C. When the Board determines the amount of any Assessment, the Treasurer shall mail or present to each Unit Owner a statement of Assessment specifying the amount of same

and to whom and where same should be payable and sent. Upon request, the Treasurer shall give a receipt for each payment received.

D. The proposed annual budgets of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to those expenses listed in Section 718.504(21), Florida Statutes. In addition to annual operating expenses and to the extent applicable, the budgets shall include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds the amount set forth in the Condominium Act, as same may be amended from time to time. The amount to be reserved shall be computed by means of such formula as is set forth in the Act or the Florida Administrative Code, as both may be amended from time to time. The Association may adjust replacement reserve assessments annually to take into account any extension of the useful life of a reserve item caused by deferred maintenance.

7.4 **Application of Payments and Commingling of Funds.** All funds collected by the Association shall be maintained separately in the Association's name. Collecting operating and reserve assessments shall not be considered as commingled provided the reserve portion of the payment is transferred to a separate reserve account within thirty (30) days from the date of deposit.

7.5 **Fidelity Bonds.** The Association shall obtain and maintain fidelity bonding of all persons who control or disburse funds of the Association in the principal sum not less than that required by the Condominium Act, as same may be amended from time to time.

7.6 **Financial Statements.** The Board shall cause to be prepared financial statements either compiled, reviewed or audited, financial statement or a report of cash receipts and expenditures in lieu of financial statements, in accordance with the Condominium Act, as amended from time to time.

## ARTICLE 8

### **OFFICIAL RECORDS**

The Association shall maintain official records as defined in the Act, as same may be amended from time to time, which shall be subject to inspection as provided in the Act, as same may be amended from time to time.

## ARTICLE 9

### **PARLIAMENTARY RULES**

Roberts' Rules of Order (latest edition) shall be advisory only to govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.

**ARTICLE 10**

**AMENDMENTS**

Except as otherwise provided, these Bylaws may be amended in the following manner:

10.1 **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.

10.2 **Adoption.** A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by at least one-fourth (1/4) of the Voting Interests of the Association. A proposed amendment must be approved by not less than a majority (50% + 1) of the Voting Interests in person or by proxy at a duly called meeting of the Members or by written agreement.

In the event that any amendment was proposed by written petition of the Members, then the Board shall have thirty (30) days from its receipt to certify that the proper number of owners executed the petition. Once certified, the Board shall call a meeting of the Members to vote on the amendments within sixty (60) days after certification of the signatures.

10.3 **Execution and 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, which 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 Indian River County.

**ARTICLE 11**

**LIABILITY SURVIVES TERMINATION OF MEMBERSHIP**

The termination of Membership in the Association shall not relieve or release any former Unit Owner or Member from any liability or obligation incurred under or in any way connected with the Condominium during the period of ownership and Membership, or impair any rights or remedies which the Association may have against such former Unit Owner and Member, arising out of, or which is in any way connected with, such ownership and Membership.

**ARTICLE 12**

**LIMITATION OF LIABILITY**

Notwithstanding the duty of the Association to maintain and repair parts of the property, the Association shall not be liable for injury or damage caused by a latent condition in the property, nor for injury or damage caused by the elements, or other Unit Owners or persons.

**ARTICLE 13**

**LIENS**

13.1 **Protection of Property.** All liens against a Unit, other than for permitted mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date the lien attaches. All taxes and special assessments shall be paid before becoming delinquent as provided in the Condominium documents or by law, whichever is sooner.

13.2 **Notice of Lien.** A Unit Owner shall give notice to the Association of every lien upon his Unit, other than for permitted mortgages, taxes and special assessments, within five (5) days after the attaching of the lien.

13.3 **Notice of Suit.** A Unit Owner shall give notice to the Association of every suit or other proceeding which will or may affect title to his Unit or any part of the property, such notice to be given within five (5) days after the Unit Owner receives notice thereof.

13.4 **Effect on Judicial Sale.** Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

**ARTICLE 14**

**EMERGENCY BYLAWS**

14.1 **Emergency Bylaws.** The following shall apply to the extent not prohibited by the Condominium Act. The Board of Directors may adopt Bylaws to be effective only in an emergency. An emergency exists because of some catastrophic event, including but not limited to hurricanes, government stay-at-home orders, pandemics, or similar events for which a state of emergency is declared. The emergency Bylaws, which are subject to amendment or repeal by the Members, may make all provisions necessary for managing the Association during an emergency, including, but not limited to:

A. Procedures for calling a meeting of the Board of Directors, including calling a meeting via video conferencing applications, telephone conference lines or other similar applications, which may include conducting Board meetings with notice given as practicable.

B. Quorum requirements for the Meeting, the ability to meet virtually, telephonically, or through other communication and virtual platforms.

C. Designation of additional or substitute Directors in accordance with Section 718.1265, Florida Statutes.

14.2 **Lines of Succession.** The Board of Directors, either before or during any such emergency, may provide and from time to time modify, lines of succession in the event that during such emergency any or all officers or agents of the Association are for any reason rendered incapable of discharging their duties.

14.3 **Effective Bylaws.** All provisions of the regular Bylaws consistent with the emergency Bylaws remain effective during the emergency. The emergency Bylaws are not effective after the emergency ends. Corporate action taken in good faith in accordance with the emergency Bylaws

binds the Association and may not be used to impose liability on a Director, officer, employee or agent of the Association.

**ARTICLE 15**

**SEAL**

The Association is not required to have a corporate seal. If a seal is used, the seal shall have inscribed thereon the name of the Association, the year of its organization, and the words "corporation not-for-profit." Said seal may be used by causing it or a facsimile thereof to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

**ARTICLE 16**

**CONFLICT**

If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and of any provision of the Declaration, the provisions of the Declaration shall prevail.

**ARTICLE 17**

**CAPTIONS**

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provisions hereof.