

BOOK FACE
 VOLUCIA CONDOMINIUM
 V. DEFINITION OF UNITS, COMMON ELEMENTS, AND LIMITED
ELEMENTS

The Condominium will consist of "Units", "Common Elements" and "Limited Common Elements" as those terms are herein defined.

A. Units

Each Unit together with all appurtenances thereto shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred and encumbered in the same manner as any other parcel of real property subject only to the provisions of these condominium documents and the Condominium Act. Each owner shall be entitled to exclusive possession of his Unit subject to the provisions of the condominium documents and the Condominium Act.

The boundaries of each Unit shall be as follows:

1. The upper horizontal boundary of each Unit shall be the lower surface of the unfinished ceiling extended to an intersection with the vertical boundaries.

2. The lower horizontal boundary shall be the plane of the upper surface of the unfinished floor extended to an intersection with the vertical boundaries.

3. The vertical boundaries of each Unit shall be the plane of the inner surface of the sheetrock (being that part of the sheetrock exposed to the interior of the Unit). All glass and other transparent and/or translucent material or screens covering windows and doors and the material covering other openings in the exterior walls of the Units shall be construed to be within the boundaries or limits and part of the Unit exclusively served by such windows, doors and other openings.

B. Common Elements

The term "Common Elements" as used herein shall mean and comprise all of the real property and improvements of the Condominium except Units and including, without limitation: (1) easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to Units and Common Elements; and (2) easements of support in every portion of a Unit which contributes to the support of other Units and/or Common Elements; and (3) installations for the furnishing of utility services to more than one Unit or to the Common Elements or to a Unit other than the Unit containing the installation, specifically excluding however, any utility main lines, distribution lines, force mains or collection lines and meters owned and maintained by the utility company servicing the Condominium Property or owned by the Association; and (4) the property and installations in connection therewith required for the furnishing of services to more than one Unit or to the Common Elements; and (5) fixtures owned or held for the common use, benefit and enjoyment of all owners of Units in the Condominium; (6) the riparian and/or littoral rights appertaining to the Land, if any; and (7) easements for ingress and egress serving the Condominium Property and (8) parking area containing at least 133 parking spaces.

C. Limited Common Elements

The term "Limited Common Elements" as used herein shall mean and comprise the Common Elements which are reserved herein, or assigned, or granted separately herefrom, for the use of a certain Unit or Units to the exclusion of other Units, and consisting of the following:

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1. The patio or balcony ^{BOOK PAGE} ~~is~~ ^{is} ~~located~~ ^{located} on the exterior of a building and serving only one Unit. ^{FLORIDA}

VI. APPURTENANCES TO UNITS

There shall be appurtenant and pass with title to each Unit the rights, shares and interests provided by the Condominium Act which shall be deemed to include, without limitation, the following:

A. An undivided 1/76th share in the Common Elements and in the "Common Surplus" (as those terms are elsewhere herein defined).

B. The right to use exclusively, those portions of the Common Elements designated and/or reserved herein and/or granted elsewhere to a certain Unit or Units as Limited Common Elements;

C. An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time (as shown on Exhibit "C" hereto) and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time;

D. Non-exclusive easements, to be used and enjoyed in common with the owners of all Units in this Condominium, their guests and invitees, for use of those Common Elements or other facilities not designated elsewhere herein as Limited Common Elements including, without limitation, easements for:

(1) The furnishing and maintenance of utility services to all parts of the real property of the Condominium(s) over, across, in and through the Land, buildings and other improvements, as the fixtures and equipment therefor now exist and/or may be modified or relocated; and

(2) Vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds and other portions, if any, of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic through the Condominium and the improvements, fixtures and equipment thereon, and for access to public ways.

E. An exclusive easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit or Common Element, or vice versa, for any reason not caused by or resulting from the willful or negligent act of Developer or any Unit owner or owners, including, without limitation, encroachments caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times during the continuance of such encroachments, as an easement appurtenant to the encroaching Unit or other improvements, to the extent of such encroachment;

F. An exclusive easement for the use of the area of land and air space occupied by the air conditioning compressor and the equipment and fixtures appurtenant thereto, situated in and/or on Common Elements of the Condominium but exclusively serving and individually owned by the Owner of the Unit, as the same exist in and on the Land, which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air conditioning compressor and the equipment and fixtures appurtenant thereto; provided that the removal of the same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies;

G. The right to membership in the "Association" (elsewhere herein defined) upon the terms and conditions set forth elsewhere herein.

VII. ASSOCIATION

A. The entity responsible for the operation of the Condominium shall be Southpoint of Daytona Condominium Association, Inc. a Florida corporation not-for-profit (the "Association"). A copy of the Association's Articles of Incorporation and Bylaws are attached hereto and made a part hereof as Exhibits D and E, respectively. The Association shall administer and manage the Condominium Property; provided, that the Association may, to the extent permitted by the Condominium Act, by contract, delegate its maintenance, management and operational duties and obligations; and provided further, however, that the Developer hereby reserves the rights provided in the Condominium Act and this declaration and the Bylaws of the Association to initially manage and operate the Condominium Property.

VIII. VOTING RIGHTS OF UNIT OWNERS

The owner or owners of each Unit shall become a member or members of the Association automatically upon and simultaneously with the delivery of a deed of conveyance of fee title thereto from Developer or its successors in title. There shall be appurtenant, and pass with title, to each Unit one vote as a member of the Association, which may be exercised by the owner(s) as set forth in the Articles of Incorporation and Bylaws of the Association. Membership in the Association shall terminate when a Unit Owner's vested interest in the fee title to the Unit terminates. Membership in the Association cannot be separately transferred, assigned or pledged in any manner except as an appurtenance to the respective Unit.

IX. AMENDMENT OF DECLARATION

Except for amendments which the Developer is authorized and/or obligated elsewhere herein to make and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided, this Declaration may be amended only in the following manner:

A. Notice

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

B. Proposal

Amendments to this Declaration may be proposed by the Board of Directors (the "Board") of the Association by resolution adopted by a majority vote of the Directors elected from this Condominium present at any regular or special meeting of the Board at which a quorum is present; or, in the alternative, by a written instrument signed by a majority of the Board elected from this Condominium or by the owners of a majority of the Units, whether by vote of such owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them.

C. Adoption

Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association; or, in the absence of the President, to a Vice President or other acting chief executive officer, who shall thereupon call a special meeting of the Unit owners in the Condominium to consider and vote upon such proposed amendment; provided that a proposed amendment may be considered and voted upon at an annual meeting of the members of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting, as the case may be, of the members shall be held not sooner than thirty (30) days nor later than sixty (60) days from the date of receipt by the Association of

BOOK PAGE
 the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the By-Laws of the Association; provided, that any member may, in writing signed by such member, waive notice of any such meeting in the manner provided for in the By-Laws of the Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of giving notice to such member. The proposed amendment may be adopted and shall become effective, by and upon the affirmative vote at such meeting of unit owners owning not less than sixty-six and two-thirds percent (66-2/3%) of the Units; provided, that any amendment so proposed may be adopted, without a formal meeting of the members, by an instrument executed and acknowledged with the formalities of a deed by members owning not less than sixty-six and two-thirds percent (66-2/3%) of all Units. Notwithstanding the foregoing provisions for adoption of amendments to this Declaration or any other provisions for amendment in the Condominium Act, no amendment shall:

- (1) Change any "Condominium Parcel" (as defined in the Condominium Act) unless the record owner thereof and all record owners of liens thereon shall join in the execution and acknowledgment of the amendment;
- (2) Discriminate against any Unit owner or against any Unit or building or class of buildings comprising part of the Condominium Property, unless the record owners of all affected Units and record owners of all liens thereon shall join in the execution and acknowledgment of the amendment;
- (3) Change the share of Common Elements appurtenant to any Unit or Units or the share of any Unit owner in the Common Surplus, or increase the share of any Unit owner(s) in the Common Expenses, unless the record owners of all Units and the record owners of all liens thereon shall join in the execution and acknowledgment of such amendment;
- (4) Make any change in Article XII hereof, entitled "Insurance" nor in Article XIII hereof, entitled "Reconstruction or Repair After Casualty" unless the record owners of all liens on Units shall join in the execution and acknowledgment of the amendment;
- (5) Adversely affect the lien or priority of any previously recorded mortgage to a mortgagee; or
- (6) Adversely affect any right, reservations, privileges, powers and options of the Developer as stated herein, without the prior written consent of the Developer.

D. Effective Date and Recording Evidence of Amendment

As to members of the Association and persons having actual knowledge of the adoption of any amendment to this Declaration, such amendment shall be effective as of the date of adoption or otherwise as may be specified in the resolution or instrument creating the amendment. As to non-members of the Association without actual knowledge of an amendment to this Declaration, the same shall be effective at the time the affected person acquires actual knowledge thereof or at the time of filing the amendment or certificate of amendment in the public records of Volusia County, Florida, whichever occurs first. The President of the Association, or, in the absence of the President, a Vice President or other acting chief executive officer of the Association, shall cause to be filed in the Public Records of Volusia County, Florida, the original amendment to the Declaration, if it is in the form of an instrument executed and acknowledged by Unit owners and the holders of liens thereon, or a certificate of amendment, if it is a certification by the proper officers of the Association that such amendment was adopted by the Association at a meeting of the members. A true and correct copy of each such amendment or certificate of amendment shall be delivered,

forthwith after adoption thereof, Volusia County Florida record owners of all Units and to the record owners of all liens on Units, by the President, Vice President or other acting chief executive officer of the Association; but delivery of such copies shall not be a condition precedent to the effectiveness of any such amendment.

E. Amendment to Correct Omission or Error in Condominium Documents

Notwithstanding any provision to the contrary set forth in this Article IX or elsewhere in this Declaration, the Articles of Incorporation or By-Laws of the Association, the affirmative vote of the owners of not less than fifty-one per cent (51%) of the Units in the Condominium shall be sufficient to adopt an amendment to this Declaration for the purpose of correcting a defect, error or omission in or of this Declaration not materially adversely affecting the rights of owners, lienors or mortgagees.

F. Amendment by Developer

Notwithstanding any provision to the contrary set forth in Article IX or elsewhere in this Declaration or in the Articles of Incorporation or ByLaws of the Association, the Developer may amend this Declaration to add any surveyor's certificate(s) as described in Article IV A without the consent or joinder of any Unit owner or mortgagee of any unit.

X. COMMON EXPENSES AND COMMON SURPLUS

A. The term "Common Expenses", as used herein, shall mean all expenses for which the owners of Units shall be liable to the Association. The term "Common Surplus", as used herein, shall mean the excess of all receipts of the Association from owners of Units in the Condominium including, without limitation, assessments, rents, profits and revenues on account of the Common Elements of the Condominium, over the amount of the Common Expenses of the Condominium. All owners of Units in the Condominium shall share the Common Expenses and shall own the Common Surplus in fractional amounts of 1/76th.

XI. MAINTENANCE, REPAIRS AND REPLACEMENTS

Responsibility for maintenance, repairs and replacements of Condominium Property and property of Unit owners located or situated within the Condominium shall be as follows:

A. Unit Owner's Responsibility

Each Unit Owner shall maintain, repair and replace, at his expense: his Unit, and the fixtures, equipment and appliances comprising a part thereof, located therein or exclusively serving the same even if located outside the Unit, and including, without limitation, all doors within the Unit and those which open to the Unit from the outside, interior walls and partitions, windows and window apparatus and glass, sliding glass and screen doors, heating and air conditioning equipment within the Unit, the air conditioning compressor located outside of the Unit, and the ducts, pipes, wirings, controls and other apparatus serving only that Unit, even if located outside the Unit. Each Unit Owner shall be responsible for the cost of keeping his Limited Common Elements in a clean and orderly condition. Notwithstanding the obligation of the Unit Owners for maintenance, repair and replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by the Association for loss or damage to or within Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance.

B. Association's Responsibility FLORIDA

The Association shall be responsible for and shall assess against and collect from the owners of all Units in the Condominium the costs of maintaining, repairing, replacing and keeping in clean and orderly condition all of the Common Elements; provided, however that each Unit Owner shall keep his own balcony clean and orderly. The Association shall, at the expense of the owners of all Units in the Condominium, repair any and all incidental damage to Units resulting from maintenance, repairs and/or replacement of or to Common Elements. The Association shall be responsible for repairing and replacing all Limited Common Elements and shall assess against and collect from the owner of all Units in the Condominium, the cost of such repair and replacement.

XII. INSURANCE

Insurance shall be carried and kept in force at all times in accordance with the following provisions:

A. Duty and Authority to Obtain

The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the Unit owners and their mortgagees. A certificate evidencing a mortgagee endorsement shall be issued to the mortgagee of each Unit. The owner(s) of each Unit may, at the expense of such owner(s), obtain insurance coverage against damage to and loss of the contents of the Unit, personal liability for injury to and death of persons and damage to and loss of personal property of others, and against additional living expenses, provided, that each policy of such insurance purchased by a Unit owner shall, where such provision is available, provide that the insurer waives its right of subrogation as to any claim or claims against other Unit Owners, the Association, and their respective employees, agents, guests and invitees.

B. Required Coverage

The Association shall purchase and carry casualty insurance covering all of the buildings and other improvements of the Condominium, including, without limitation, Units and Common Elements, in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the Board of Directors of the Association; such insurance to include or afford protection against:

(a) Loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsements;

(b) Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar, in construction, location and use, to the buildings and other improvements of the Condominium, including, without limitation, vandalism, malicious mischief, windstorm, water damage and war risk insurance, if available;

(c) Public liability insurance, in such amounts, with such coverage and in such forms as shall be required by the Board of Directors of the Association to protect the Association and the owners of all Units, including, without limitation hired automobile, non-owned automobile, off premises employee coverage, water damage and legal liability, with cross-liability endorsements to cover liability of all Unit Owners as a group to each Unit Owner;

(d) Workmen's Compensation insurance to meet the requirements of Law; and

(e) Loss or damage by ^{BOOK PAGE} ~~fire~~ ^{FLORIDA} ~~water~~ ^{including} the extent, if any, required or necessitated by law, ~~including~~ ^{including}, without limitation, the Flood Disaster Protection Act of 1973, or any similar law or regulation.

C. Optional Coverage

The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board of Directors of the Association, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners, including Directors' liability insurance coverage, or as an institutional lender may reasonably require while it holds a mortgage encumbering any Unit.

D. Premiums

Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Article, shall be assessed against and collected from Unit Owners as Common Expenses.

E. Assured

All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, its members and their mortgagees, as their interests may appear. All proceeds of insurance policies purchased by the Association shall be payable to the Association. The proceeds from insurance against any casualty loss shall be held for the use of the Association, its members and their respective mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit Owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

F. Insurer

All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

G. Application of Insurance Proceeds

The proceeds of casualty insurance paid to the Association shall be applied and paid as follows:

1. Common Elements Only.

The proceeds paid to the Association for loss of or damage to real property or improvements constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Association to the owners of all Units, and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall pay from any Association Reserve Fund which may have been established the difference between the cost of repairing, replacing or reconstructing such loss or damage to the Common Elements and the amount of the proceeds. If no such Association

Reserve Fund has been established, or if insufficient to pay the difference, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners, as a Common Expense.

2. Units.

The proceeds paid to the Association for loss of or damage to a building, constituting Common Elements and one or more Units thereof only, shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Association to the owners of the damaged or destroyed Units and their respective mortgagees, as their interests may appear, in equal amounts. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, the Association shall assess the amount of the difference against, and collect the same from, the owner(s) of the Unit(s) damaged or destroyed, in the proportion that the amount of damage sustained to each such Unit bears to the total deficit, and apply such sum toward the total cost of repairing, replacing or reconstructing all of such damaged or destroyed Common Elements and Units. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements, the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit Owners, as a Common Expense, and in such event, the cost of repairing, replacing or reconstructing the Unit or Units destroyed or damaged shall be assessed by the Association against, and collected from, the owner(s) of such damaged or destroyed Units. If and when insurance proceeds are paid to the Association for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage, and shall not have the right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the owner(s) of the Unit and the mortgagee(s) thereof, after such insurance proceeds have been first applied to repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the owner(s) of the Unit, and the mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

XIII. RECONSTRUCTION OR REPAIR AFTER CASUALTY

Whether, and the manner in which, any or all of the Condominium Property which shall be damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

A. Residential Building

If the Residential Building shall be damaged or destroyed, repair or reconstruction thereof, or termination of the Condominium, shall be in accordance with the following:

1. Total Destruction of the Residential Building.

If the Residential Building of the Condominium is totally destroyed or is so damaged that no Unit therein is habitable, neither the Building nor any of the improvements comprising Common Elements shall be reconstructed, and the Condominium shall be

BOOK PAGE
 VOL 153 PAGE 153
 terminated unless seventy-five percent of the owners of Units agree in writing, within sixty (60) days after the date of such destruction, to reconstruct the same and/or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder, and in either case as long as the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed.

2. Damage to the Building.

If the Residential Building is wholly or partially damaged and any of the Units in the building remains habitable, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed so that the building and/or Unit(s) shall be restored to substantially the same condition as existed prior to such damage or destruction, unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere herein provided that the Condominium shall be terminated.

B. Common Elements

Damaged or destroyed improvements constituting part of the Common Elements, shall be repaired, reconstructed and/or replaced unless, in the event of total destruction of the Units, or, by agreement after partial destruction, the Condominium shall be terminated.

C. Plans and Specifications

Repair or reconstruction of Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed, provided that the Board of Directors of the Association may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.

D. Responsibility

If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance, repair and replacement is that of the affected Unit Owners, then such Unit Owners shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

E. Construction Funds

All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from Unit Owners, shall be disbursed toward payment of such costs in the following manner:

1. Unit Owner

The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more, but less than all Unit Owners, shall be paid by the Association to the affected Unit Owners and, if any of such Units are mortgaged, to the Unit Owners and their mortgagees jointly.

2. Association - Lesser Damage

If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Five Thousand and No/100 Dollars (\$5,000.00), then the Construction fund shall be disbursed in payment of such costs upon the order of the Association.

3. Association -- Major Damage. BOOK PAGE
VOLUSIA COUNTY FLORIDA

If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Five Thousand and No/100 Dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs in the manner required by the Board of Directors of the Association and upon approval of an architect registered to practice in Florida and insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere herein stated; except, however, that the part of a distribution to a beneficial owner which is not in excess of assessment paid by such owner into the construction fund shall not be made payable to any mortgagee.

XIV. USE RESTRICTIONS

Use of the Condominium Property shall be in accordance with and subject to the following provisions so long as the Condominium exists:

A. Units

Each of the Units shall be occupied only by a single family, its servants and guests or lessees, as a residence and for no other purposes. Except as the right to divide and subdivide is reserved to Developer, no Unit may be divided or subdivided into a smaller Unit, nor any portion thereof sold or otherwise transferred.

B. Common Elements

The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units.

C. Nuisances

No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazards be allowed to exist. No use shall be made of any Unit or of the Common Elements or Limited Common Elements which will increase the rate of insurance upon the Condominium Property.

D. Lawful Use

No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.

E. Leasing

Entire Units, but not less than entire Units, may be leased; provided occupancy is only by the tenant and his family, servants and guests.

F. Regulations

Reasonable regulations concerning the use of the Condominium Property may be made and amended from time to time by the Board; provided, however, that all such regulations and amendments thereto

BOOK PAGE
 may be changed or revoked by two-thirds of the Unit Owners, who are present at any meeting at which a quorum exists.

G. Rights of the Developer

1. Until Developer has completed and sold all of the Units, neither the Unit Owners nor the Association nor the use of the Condominium Property shall interfere with the completion of the proposed improvements and the sale of the Units. Developer may make such use of the unsold Units and common area as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, the showing of the land, and the display of signs, and further provided, that Developer retains the right, so long as it holds fee simple title to any Unit in the Condominium, to establish a plan for leasing any Unit or Units in the Condominium, whether such Unit or Units be owned by it or not, and thereafter to administer such plan for voluntarily participating Unit Owners on such terms as Developer may provide.

2. Notwithstanding anything contained in this Declaration of Condominium to the contrary, so long as the Developer shall own any units, no rules and regulations relevant to the use of the Common Elements shall be adopted without the prior written consent of the Developer and no permanent improvements other than as set forth in the site plan shall be constructed upon the Common Elements nor shall any substantial repair or reconstruction be performed upon the Common Elements without the prior written consent of Developer.

3. Pursuant to the provisions of the Condominium Act, Developer shall be excused from payment of assessments attributable to Units owned by the Developer until the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first Unit occurs. However, Developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other Unit owners.

H. Notice of Lien or Suit

1. 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 days after the attaching of the lien.

2. Notice of Suit.

A Unit Owner shall give notice to the Association of every suit or other proceeding which may affect the title to his Unit; such notice to be given within five (5) days after the Unit Owner receives knowledge thereof.

XV. COMPLIANCE AND DEFAULT

Each Unit Owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act:

A. Negligence

A Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests, employees, agents, lessees or other invitees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use.

misuse, occupancy or abandonment of a Unit or Florida appurtenances, or of the Common Elements or Limited Common Elements.

B. Costs and Attorney's Fees

In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, the Articles of Incorporation and Bylaws of the Association, and any and all regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the Court.

C. No Waiver of Rights

The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and Bylaws of the Association, or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

XVI. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

To provide the funds necessary for proper operation and management of the Condominium, the Association has been granted the right to make, levy and collect assessments against the owners of all Units. The following provisions shall govern the making, levying and collecting of such assessments and the payment of the costs and expenses of operating and managing the Condominium by the Association and for operating and managing the property owned by the Association.

A. Determination of Assessments

Each Unit Owner shall pay to the Association 1/76th of the total assessments deemed necessary by the Board of Directors for the operation of the Condominium Property.

B. Time for Payment

The assessment levied against the owner of each Unit and his Unit shall be payable not less often than quarterly as shall from time to time be fixed by the Board as permitted by the Condominium Act.

C. Annual Budget

Subject to the requirements of the Condominium Act, the Board shall establish an Annual Budget in advance for each fiscal year which shall estimate all expenses for the forthcoming fiscal year required for the proper operation, management and maintenance of the Condominium, including, when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves and shall estimate all income to be collected during the year. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each Unit Owner, and the assessment for the year shall be based upon such budget. Failure to deliver a copy of the budget to a Unit Owner shall, however, not affect the liability of such owner for such assessment. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

D. Reserve Fund

The Board, in establishing each Annual Budget, shall include therein a sum to be collected and maintained as a reserve fund for the capital expenditures, deferred maintenance and replacement of

Common Elements and personal property held for the use and benefit of the owners of all Units. These reserve accounts shall include, but not be limited to, roof replacement, building painting, and pavement resurfacing. The amount to be reserved shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item; provided however, that no such reserve shall be included within the annual budget if the Unit Owners owning not less than fifty-one percent (51%) of the Units, at a duly called meeting of the Association, determine to provide no fiscal reserves or a lesser amount of fiscal reserves than as provided herein for any fiscal year.

F. Use of Association Funds

All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and Bylaws. Although all funds and other assets of the

Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

G. Delinquency or Default

The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. When in default, the delinquent assessments or installments thereof shall bear interest at a rate determined from time to time by the Board of Directors until the same, and all interest due thereon, has been paid in full.

H. Personal Liability of Unit Owner

The owner(s) of each Unit shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, interest on such delinquent assessments or installments thereof as above provided, and for all cost of collecting the assessments and interest thereon, including reasonable attorney's fees, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

I. Liability Not Subject to Waiver

No owner of a Unit may exempt himself from liability for any assessment levied against such owner and his Unit by waiver of the use or enjoyment of any of the Common Elements

J. Lien for Assessment

The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements or Limited Common Elements which lien shall and does secure the monies due for all: (1) assessments levied against the owner(s) of and each Unit, and (2) interest, if any, which may become due on delinquent assessments owing to the Association, and (3) costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for Volusia County, Florida, and in any suit for the foreclosure of said lien, the Association shall be entitled to rental from the owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for said

Unit. The rental required to be paid shall be ^{BOOK} ^{PAGE} ^{VOLUSIA COUNTY} ^{FLORIDA} to the rental charged on comparable types of units in Volusia County, Florida. The lien of the Association shall also secure all advances for taxes, and payments on account of superior mortgages, liens or encumbrances made by the Association to preserve and protect its lien, together with interest at the highest rate allowed by law on all such advances made for such purposes.

K. Recording and Priority of Lien

The claim of lien of the Association shall be effective from and after recording, in the Public Records of Volusia County, Florida, a claim of lien stating the description of the Unit encumbered thereby, the name of the record owner, the amount and the date when due, and shall continue in effect until all sums secured thereby shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinate to the lien of any previously recorded mortgage.

L. Effect of Foreclosure or Judicial Sale

In the event that any person, firm, partnership or corporation shall acquire title to any Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure, deed in lieu of foreclosure, or judicial sale, such person, firm or corporation so acquiring title shall only be liable and obligated for assessments as shall accrue and become due and payable for the Unit and its appurtenant undivided interest in Common Elements subsequent to the date of acquisition of such title, and shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Unit by foreclosure, deed in lieu of foreclosure, or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all owners of all Units as a part of the Common Expense, although nothing herein contained shall be construed as releasing the party personally liable for such delinquent assessment from the payment thereof or the enforcement of collections of such payment by means other than foreclosure.

M. Effect of Voluntary Transfer

When the owner of any Unit proposes to lease, sell or mortgage the same in compliance with other provisions of this Declaration, the Association, upon written request of the owner of such Unit, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by the owner of such Unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the owner of the Unit and Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the rent, proceeds of such sale or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such rent, proceeds of sale or mortgage to the owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantor shall be jointly and severally liable with the grantee for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

N. Commencement of Assessments

The date of commencement of the assessments against each Unit, as described in this Article, shall be established by the Board of Directors of the Association.

XVII. REGISTRY OF OWNERS AND MORTGAGES

The Association shall at all times maintain a Register of the names of the owners and mortgagees of all Units. Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of his interest in such Unit together with recording information identifying the instrument by which such transferee acquired his interest in the Unit. The owner of each Unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage, or mortgages, and the recording information identifying the same. The holder of any mortgages encumbering a Unit may notify the Association of any such mortgage(s), and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same.

XVIII. ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS

Except as the right is herein reserved to Developer, neither a Unit Owner nor the Association shall make any alterations, improvements or additions to Units or Common Elements, except in compliance with the following:

A. Developer reserves the right to change the interior design and arrangement of, and to alter the boundaries between, Units owned by Developer, provided that no such change shall increase the number of Units without an amendment to this Declaration of Condominium by the Unit Owners, their mortgagees and the Association, as provided for elsewhere herein. Any such amendment to this Declaration which Developer is authorized to make to reflect the alteration of the boundaries of a Unit or Units owned by Developer may be executed and acknowledged by Developer and shall not require the consent or joinder of other Unit Owners and/or their mortgagees.

B. Unless the Unit Owner(s) shall first submit plans for such work to the Board, and the Board, by resolution unanimously adopted by the affirmative vote of all members thereof, shall approve and consent thereto, no alteration of or improvement or addition to a Unit, or to any Limited Common Element to which the owner has an exclusive right of use, shall be made, constructed, erected or installed which shall: (1) remove, in whole or in part, replace, reroute, or otherwise affect any column, bearing wall or partition, pipe, duct, wire or conduit, or obstruct any easement herein provided for, or (2) remove or change the style, pattern, material, texture or outside color of any door, window, screen, fixture, equipment or appliance in or on an exterior Unit or building wall, or (3) cover, from the inside or outside, the glass or other transparent and/or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance

which shall render the same opaque or ^{WASH. COUNTY} ~~opaque~~ the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a neutral color material, or (4) affix to or over any exterior door or window, or otherwise install on the exterior, of any Unit or building, any storm or hurricane shutter or awning or any protective or decorative panel, paneling, trim, enclosure, fixture, or appliance, or (5) otherwise change, modify or alter the exterior of any Unit or building so that it thereby differs in appearance from any other Units or buildings, of the same type. There shall be no material alterations or substantial improvements or additions to the Common Elements except in the following manner: subject to the foregoing restrictions against changing the exterior appearance of Units and/or buildings, the Association shall have the right to make of cause to be made alterations, improvements and/or additions to the Common Elements, except the acquisition of additional real property, which have been approved by two-thirds of the owners of Units. The cost of such alterations, improvements and/or additions shall be assessed against and collected from the owners of all Units as Common Expenses.

In any litigation or other dispute arising out of this Article XVIII and if the Association shall be the prevailing party, it shall be entitled to reimbursement of its costs incurred in the litigation or dispute, including, without limitation, reasonable attorneys' fees.

XIX. TERMINATION

The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

A. Destruction

In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because of total destruction or major damage, the Condominium plan of ownership will be thereby terminated without agreement.

B. Agreement

The Condominium may be terminated at any time by the approval in writing of all of the owners of the Condominium, and by all record owners of mortgages upon Units therein owned by Institutional Lenders and other mortgagees approved by the Association. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of 75% of the owners of Units, and of the record owners of all mortgages upon Units in the Condominium are obtained not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the Units of the other owners for the period ending on the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:

1. Exercise of Option.

The option shall be exercised by delivery or mailing by certified mail to each of the record owners of the Units to be purchased of an agreement to purchase signed by the record owners of Units who will participate in the purchase. Such agreement shall indicate which Units will be purchased by each participating owner and shall agree to purchase all of the Units owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

2. Price.

The sale price for each Unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and

in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

3. Payment.

The purchase price shall be paid in full in cash or shall include assumption of any existing mortgage financing plus cash.

4. Closing.

The sale shall be closed within ten (10) days following the determination of the sale price.

C. Certificate

The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of Volusia County, Florida.

D. Shares of Owners After Termination

After termination of the Condominium the Unit owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgages and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the Common Elements appurtenant to the owner's Units prior to the termination as set forth elsewhere herein.

F. Amendment

This Article XIX cannot be amended without consent of all Unit Owners and of all owners of mortgages required to approve termination by agreement.

XX. CONDEMNATION

A. General

Whenever all or any part of the Condominium Property shall be taken by any authority having the power of condemnation or eminent domain, each owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association. Unless otherwise provided by law at the time of such taking, any award made therefor shall be disbursed by the Association, as hereinafter provided in this Article.

B. Units

If the taking includes one or more Units, or any part or parts thereof, whether or not there is included in the taking any part of the Common Elements, then the award shall be disbursed as provided by law. All related matters, including, without limitation, alteration of the percentages of undivided interest of the owners in the Common Elements, shall be handled pursuant to and in accordance with the consent of all owners (or such lesser number of owners as may then be prescribed by the Condominium Act for the purpose of altering the percentages of undivided interest of the owners in the Common Elements) expressed in a duly recorded amendment to this Declaration. In the event that such an amendment shall not be

recorded within 90 days after such taking, or such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed as provided elsewhere herein whereupon the development may be terminated in the manner herein prescribed.

C. Common Elements

If part of the Common Elements is acquired by eminent domain, the award shall be paid to the Association. The Association shall divide any portion of the award not used for any restoration or repair of the remaining Common Elements among the Unit owners in proportion to their respective Common Element interests before the taking, but the portion of the award attributable to the acquisition of a Limited Common Element shall be equally divided among the owners of the Units to which that Limited Common Element was allocated at the time of acquisition.

XXI. RIGHTS OF DEVELOPER TO SELL OR LEASE UNITS

So long as Developer, or any mortgagee succeeding Developer in title, shall own any Unit, it shall have the absolute right to lease or sell any such Unit to any person, firm or corporation, upon any terms and conditions as it shall deem to be in its own best interests, and as to the sale of such unit, the right of first refusal and any right of redemption herein granted to the Association shall not be operative or effective in any manner.

XXII. RIGHTS OF INSTITUTIONAL MORTGAGEES

Any mortgagee of a Condominium Parcel who makes a request in writing to the Association for the items provided in this section shall have the following rights:

A. To be furnished with at least one (1) copy of the annual financial statement and report of the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such financial statement and report to be furnished within sixty (60) days following the end of each fiscal year.

B. To be given written notice by the Association of the call of a meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Condominium, or the Articles of Incorporation and Bylaws of Association, which notices shall state the nature of the amendment being proposed.

C. To be given notice of default by any member owning any Unit encumbered by a mortgage held by such mortgagee of the Unit Owner's obligations under this Declaration which is not cured within thirty (30) days, such notice to be given in writing and to be sent to the principal office of such mortgagee or to the place which it or they may designate in writing to the Association.

D. To be given notice of any lapse, cancellation or material modification of all insurance policies and fidelity bonds and an endorsement to the insurance policies covering the Common Elements requiring that such mortgagee be given any notice of cancellation provided for in such policy.

E. To be furnished notice of any condemnation loss or casualty loss which affects a material portion of the property or which affects a unit encumbered by the mortgagee's lien.

F. Regardless of any provision to the contrary contained in this Declaration, unless at least seventy-five percent (75%) of the Mortgagees (based upon one vote for each loan secured by a first mortgage of individual units in the Property) have given their prior written approval, the Association shall not be entitled to:

1. By act or omission seek ^{VOLUNTA COUNTY} ~~voluntary~~ partition, subdivide, encumber, sell or transfer real estate or improvements thereon owned directly or indirectly by the Association. The granting of easements for public utilities or for other public purpose consistent with the intended use of the Property shall not be deemed a transfer within the meaning of this clause;

2. Change the method of determining the obligations, assessments, dues or other charges which may be assessed against any Units by the Association; or

3. By act or omission change, waive or abandon the regulations or enforcement thereof contained in this Declaration pertaining to the architectural design or the exterior appearance of Units.

G. Examine Books and Records

Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during ordinary working hours.

H. Taxes and Other Charges

In the event the Association fails to pay, when due, taxes assessed against the Common Elements or premiums of insurance covering the improvements on property owned by the Association then any one or more of the Mortgagees may pay such taxes or insurance premiums, and the Association shall be obligated to reimburse such Mortgagee or mortgagees for such payments, and until paid, the same shall constitute a lien upon the Common Elements in favor of the party or parties, entity or entities, paying same, which said lien may be enforced in a court of competent jurisdiction of the State of Florida in the same manner as a judgment lien may be enforced.

XXIII. MISCELLANEOUS

A. Severability

The invalidity in whole or in part of any covenant or restriction, or any Article, subarticle, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the Articles of Incorporation, Bylaws and regulations of the Association shall not affect the validity of the remaining portions thereof.

B. Applicability of Declaration of Condominium

All present or future owners, tenants, or any other person who might use the facilities of the Condominium in any manner, are subject to the provisions of this Declaration, and the mere acquisition or rental of any Unit, or mere act of occupancy of any Unit, shall signify that the provisions of this Declaration of Condominium are accepted and ratified in all respects.

C. Construction

The provisions of this Declaration shall be literally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. The Florida Condominium Act as amended to the date hereof is hereby adopted and made a part hereof. In the event of any conflict between the provisions of this Declaration and the Condominium Act, the provisions of the Condominium Act shall prevail.

25570061

D. Partisa Bound

BOOK PAGE
VOLUSIA COUNTY
FLORIDA

The restrictions and burdens imposed by this Declaration of Condominium are intended to and shall constitute covenants running with the Land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements and this Declaration shall be binding upon Developer, its successors and assigns, and upon all parties who may subsequently become owners of Units in the Condominium, and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the Developer has caused the foregoing Declaration of Condominium to be executed, and its corporate seal to be affixed, by its duly authorized officer on the date set forth above.

Signed, sealed and delivered in the presence of:

SOUTHPPOINT OF DAYTONA, INC.

[Signature]
[Signature]

By [Signature]
its VICE PRESIDENT
(CORPORATE SEAL)

STATE OF FLORIDA

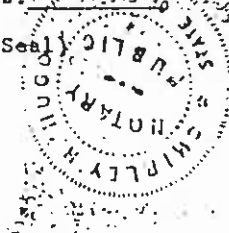
COUNTY OF Duval

The foregoing Declaration of Condominium was acknowledged before me this 1st day of April, 1982, by Roger M. D'Steen, as Vice President of SOUTHPPOINT OF DAYTONA, INC.

[Signature]
Notary Public, State of Florida
at Large

NOTARY PUBLIC, STATE OF FLORIDA
My commission expires: Aug. 29, 1983
My commission expires: 013 10

(Notarial Seal)



CONSENT OF MORTGAGEE

BOOK PAGE
VOLUSIA COUNTY
FLORIDA

Florida National Bank, a national banking association ("Mortgagee"), the owner and holder of that certain Mortgage upon that certain parcel of land in Volusia County, Florida, more particularly described on Exhibit "A" attached to this Declaration of Condominium of Southpoint of Daytona Condominium and made a part hereof, which said Mortgage is recorded in Official Records Book 2406, Page 124, public records of Volusia County, Florida, consents to the making of the Declaration of Condominium of Southpoint of Daytona Condominium and the terms and provisions contained in said Declaration.

IN WITNESS WHEREOF, the Mortgagee has caused this instrument to be executed in its name by its officer thereunto duly authorized this 2nd day of April, 1984.

Signed, sealed and delivered in the presence of:

FLORIDA NATIONAL BANK

Jacqueline E. Paullo
Pauline J. [unclear]
Witnesses

By: James Putnal
Its: Senior Vice President

STATE OF FLORIDA)
COUNTY OF DUVAL)

The foregoing was acknowledged to before me this 2nd day of April, 1984, by James Putnal as S. V.P. of Florida National Bank, a national banking association, on behalf of the Mortgagee.

Jacqueline E. Paullo
Notary Public, State of Florida

My Commission Expires: March 14, 1985

NOTARY PUBLIC, STATE OF FLORIDA
My commission expires Mar. 14, 1985

SOUTHPOINT OF DAYTONA
A CONDOMINIUM
A PORTION OF GOVERNMENT LOTS 1 AND 2
SECTION 13, TOWNSHIP 16 SOUTH, RANGE 33 EAST
VOLUSIA COUNTY, FLORIDA

That part of the Southerly 300 feet of the Northerly 5,275 feet lying South of the South line of Curlew Street, a 40 foot street, and lying Easterly of South Atlantic Avenue, as now laid out, in Government Lots 1 and 2, Section 13, Township 16 South, Range 33 East, Volusia County, Florida.

Subject to a 5 foot Easement on the North line and subject to a 5 foot Easement on the South line of property for foot traffic to Ocean.

And further subject to a 10 foot easement for utilities along, over and across the Westerly 10 feet of the above described lands.

Prepared By:
Clary, Miller & Associates, Inc.
1041 Bundeam Road
Jacksonville, Florida 32217
(904) 733-8119

25570064

BOOK PAGE
VOLUSIA COUNTY
FLORIDA

CURLEW STREET

SANDCASTLE 2 CONDOMINIUM
NR 32 PG 30

S 64° 02' 40" W 347' ±

00 P

OCEAN SHORE BOULEVARD
SOUTH ATLANTIC AVENUE
(40' R/W)
S 25° 55' 15" E 300' ±

ATLANTIC OCEAN

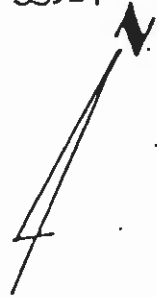
300' ±

APPROXIMATE VEGETATION EDGE
BASED ON AERIAL PHOTOGRAPHS
DATE 1/28/84

APPROXIMATE EDGE
OF VEGETATION

COASTAL CONSTRUCTION
CONTROL LINE

S 64° 02' 40" W 359' ±



SOUTHPOINT OF DAYTONA A CONDOMINIUM

A PORTION OF GOVERNMENT
LOTS 1 AND 2 SECTION 13,
TOWNSHIP 16 SOUTH, RANGE 33 EAST
VOLUSIA COUNTY, FLORIDA

MARCH 30, 1984

PREPARED BY:
CLARY, MILLER & Associates, Inc.
4041 Sumbear Road
Jacksonville, Florida
(904) 733-8119

EXHIBIT B SHEET 1

SOUTHPOINT OF DAYTONA A CONDOMINIUM

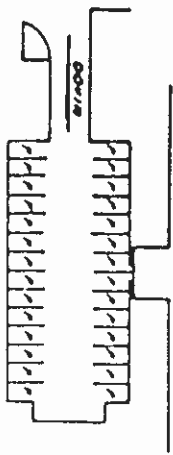
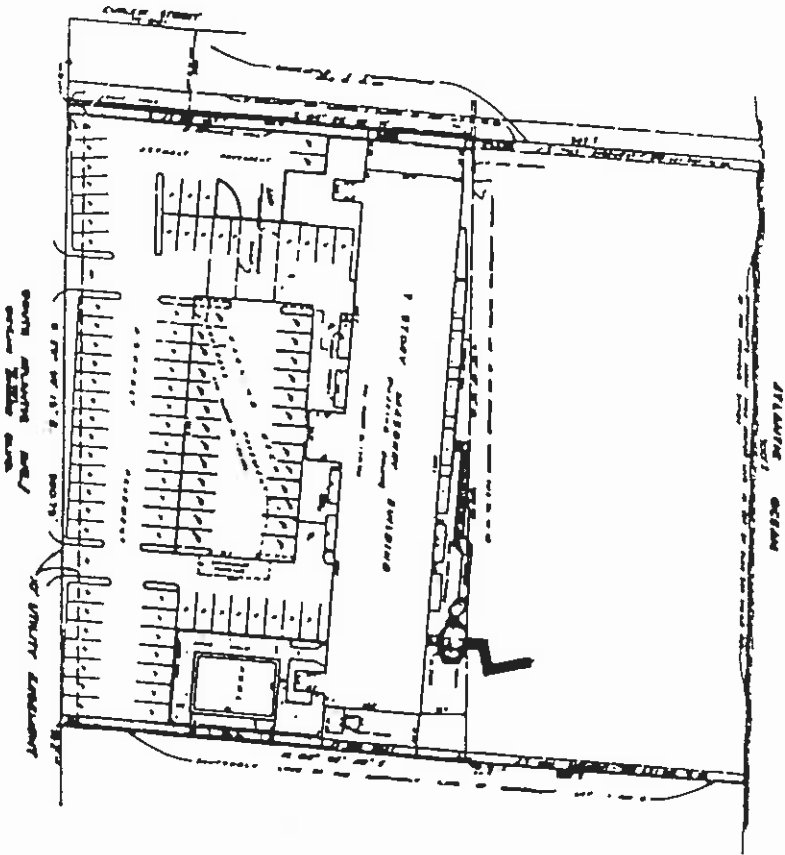
A PORTION OF GOVERNMENT LOT 1 AND 2, SECTION 14,
TOWNSHIP 40 SOUTH, RANGE 28 EAST,
VOLUSIA COUNTY, FLORIDA

GENERAL NOTES:

1. 101 Denotes Unit Number.
2. ~~XXXXXX~~ Denotes Limited Common Element.
3. P Denotes Parking.
4. ~~_____~~ Denotes walls which are common elements, not a part of the Unit.
5. All items are as-built.
6. Underground utilities, structures, if any, not shown.
7. The approximate edge of Marsh/mean High Water line as shown on this map is not a title property boundary or a Department of Environmental Regulation Jurisdictional Line and was not located in accordance with procedures specified in the act and rules of Chapter 16-3, Rules of the Department of Natural Resources of the State of Florida, and will not be used as, represented to be, or be admissible as a title property boundary or jurisdictional line before any administrative body or court of law.
8. Interior room dimensions subject to normal construction variances and tolerances.

SOUTHPOINT OF DAYTONA A CONDOMINIUM

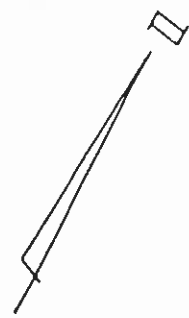
A PORTION OF GOVERNMENT LOT 1 AND 2 SECTION 18
TOWNSHIP 10 SOUTH, RANGE 16 EAST,
VOLUSIA COUNTY, FLORIDA
MARCH 30, 1984



PREPARED BY:
CLAY, HULLS & ASSOCIATES, INC.
4041 SUNSHINE ROAD
JACKSONVILLE, FLORIDA 32217
(904) 795-8178

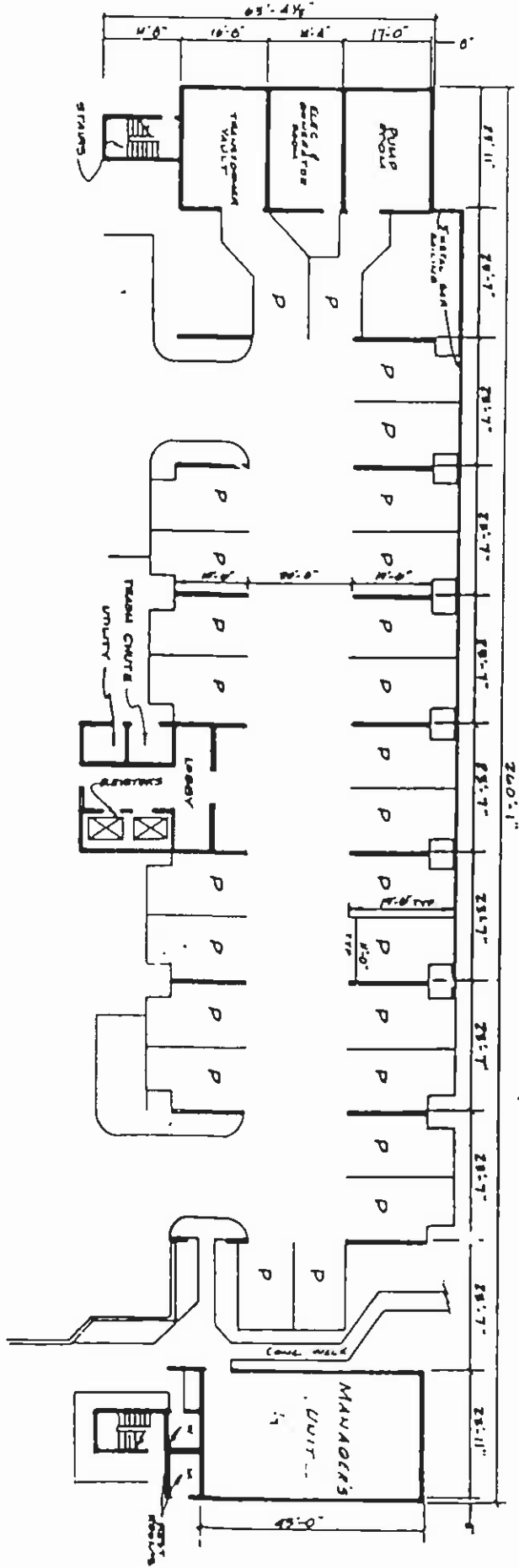
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BOOK PAGE
VOLUSTA COUNTY
FLORIDA



SOUTHPOINT OF DAYTONA A CONDOMINIUM

A PORTION OF GOVERNMENT LOT 1 AND 2, SECTION
7, TOWNSHIP 16 SOUTH, RANGE 35 EAST,
VOLUSTA COUNTY, FLORIDA



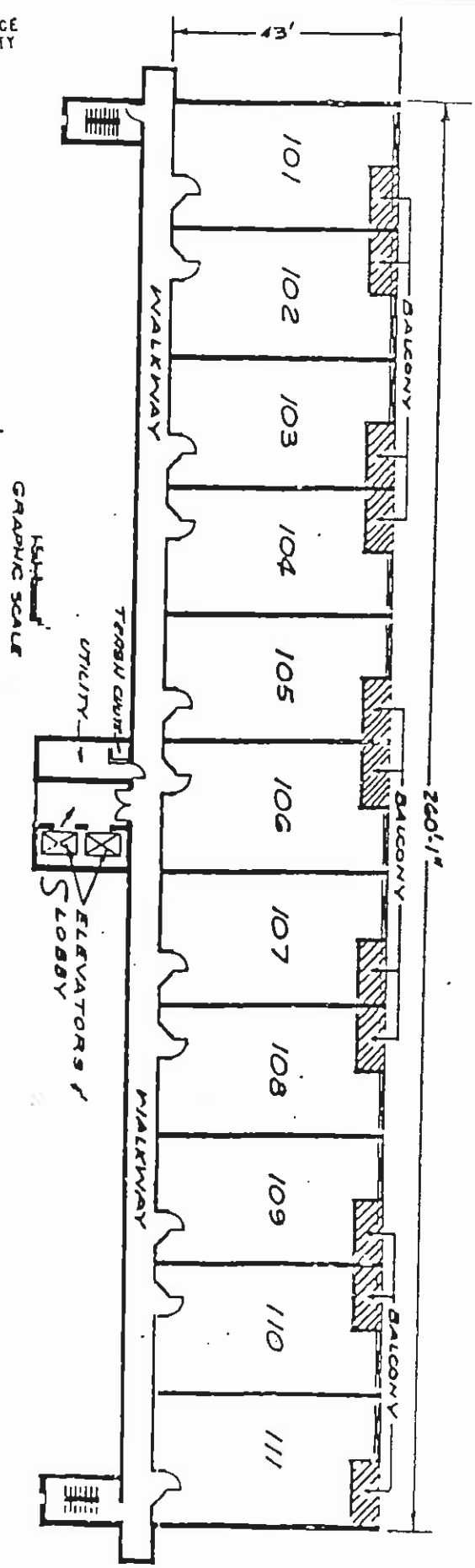
GROUND FLOOR PLAN

255,0068

BOOK PAGE
VOLUSIA COUNTY
FLORIDA



SOUTHPOINT OF DAYTONA
A CONDOMINIUM
A PORTION OF GOVERNMENT LOTS 1 AND 2
SECTION 13, TOWNSHIP 16 SOUTH, RANGE 53 EAST
VOLUSIA COUNTY, FLORIDA

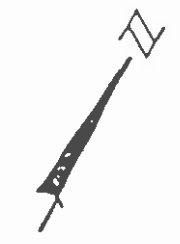


1ST FLOOR

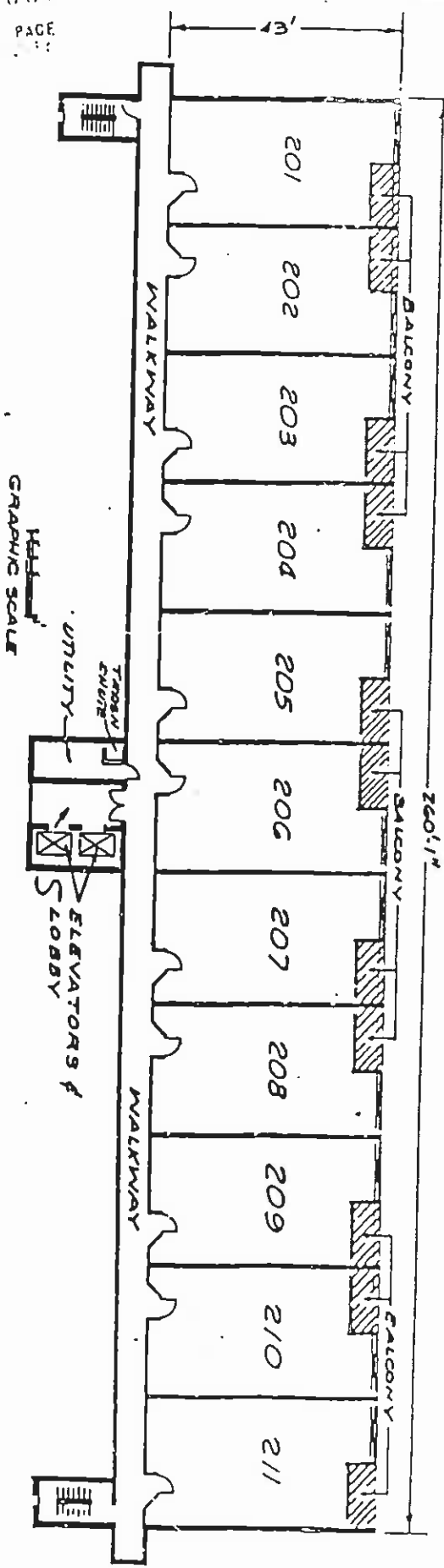
EXHIBIT C SHEET 4

25 F 7 0069

BOOK VOLUSIA FL PAGE



SOUTHPOINT OF DAYTONA
A CONDOMINIUM
A PORTION OF GOVERNMENT LOTS 1 AND 2
SECTION 13, TOWNSHIP 16 SOUTH, RANGE 33 EAST
VOLUSIA COUNTY, FLORIDA



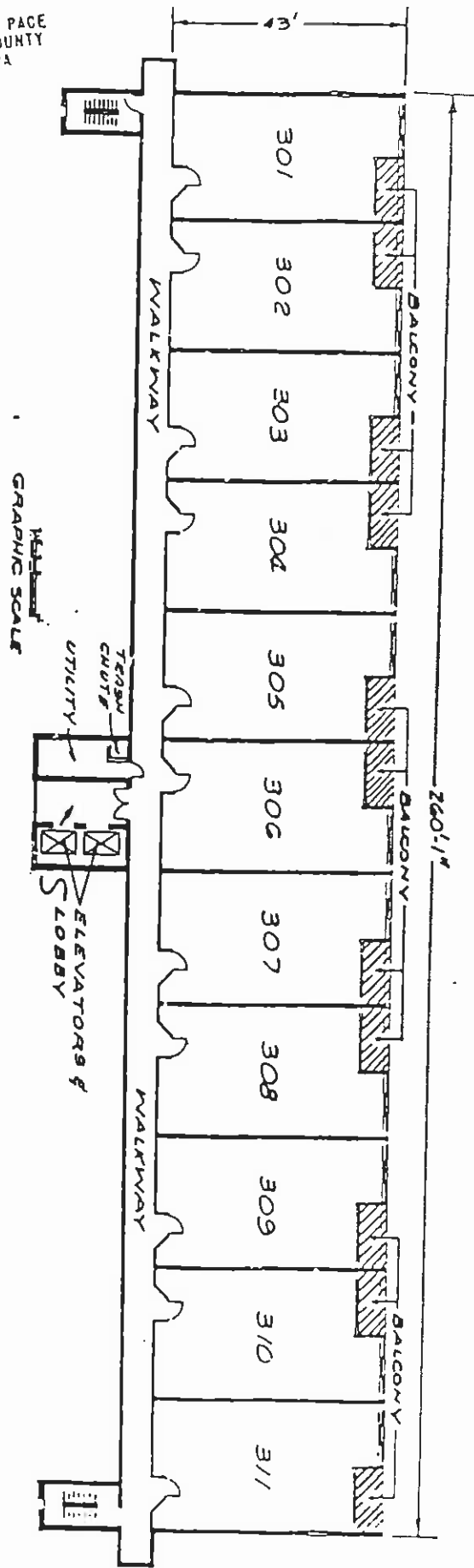
2ND FLOOR

25570070

BOOK PAGE
VOLUSIA COUNTY
FLORIDA



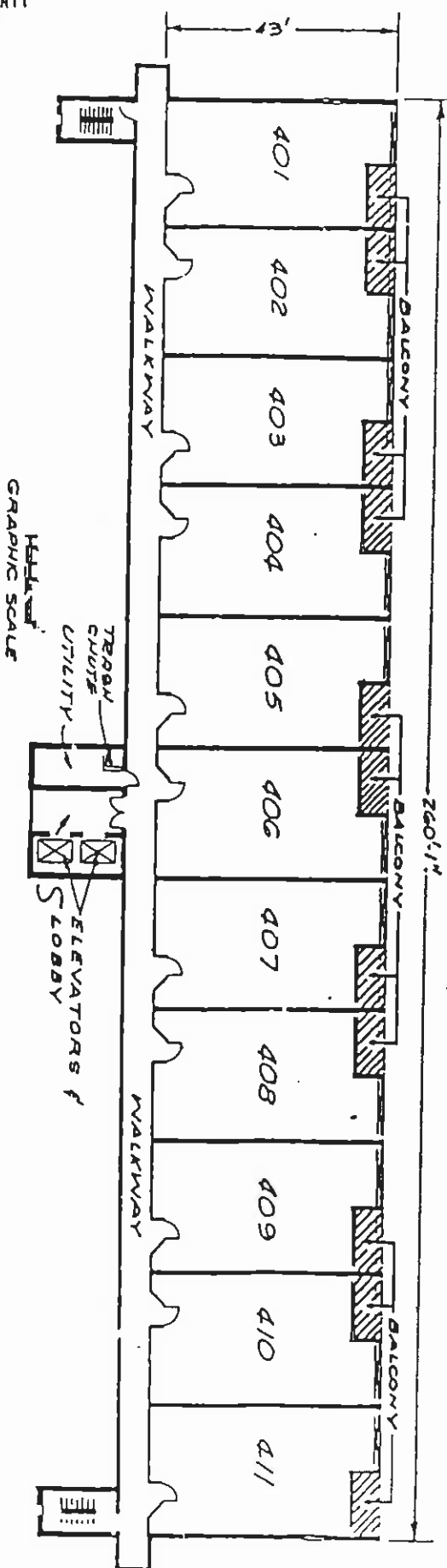
SOUTHPOINT OF DAYTONA
A CONDOMINIUM
A PORTION OF GOVERNMENT LOTS 1 AND 2
SECTION 13, TOWNSHIP 16 SOUTH, RANGE 33 EAST
VOLUSIA COUNTY, FLORIDA



3RD FLOOR

EXHIBIT C SHEET 6

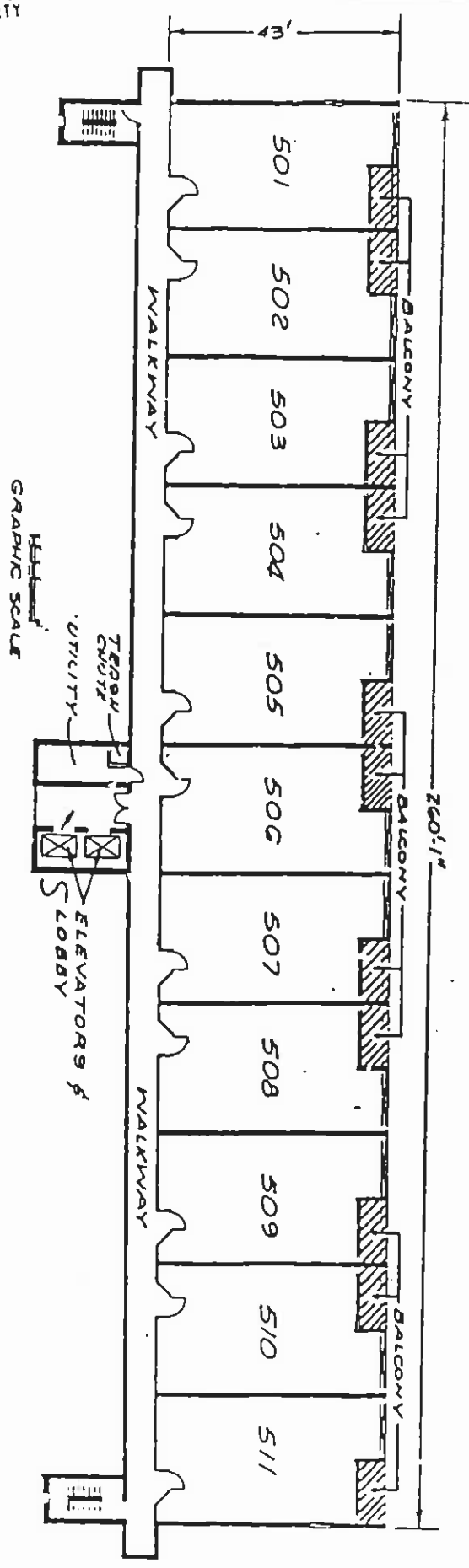
SOUTHPOINT OF DAYTONA
A CONDOMINIUM
 A PORTION OF GOVERNMENT LOTS 1 AND 2
 SECTION 13, TOWNSHIP 16 SOUTH, RANGE 33 EAST
 VOLUSIA COUNTY, FLORIDA



4 TH FLOOR

EXHIBIT C SHEET 7


SOUTHPOINT OF DAYTONA
A CONDOMINIUM
 A PORTION OF GOVERNMENT LOTS 1 AND 2
 SECTION 13, TOWNSHIP 16 SOUTH, RANGE 33 EAST
 VOLUSIA COUNTY, FLORIDA

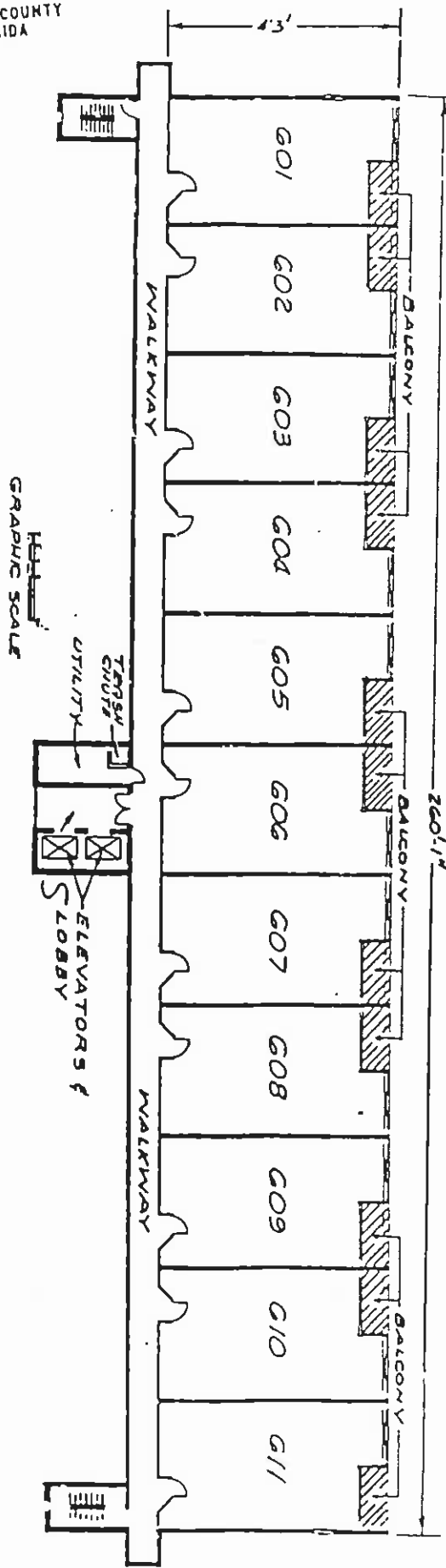


5 TH FLOOR

5570073

BOOK PAGE
VOLUSIA COUNTY
FLORIDA

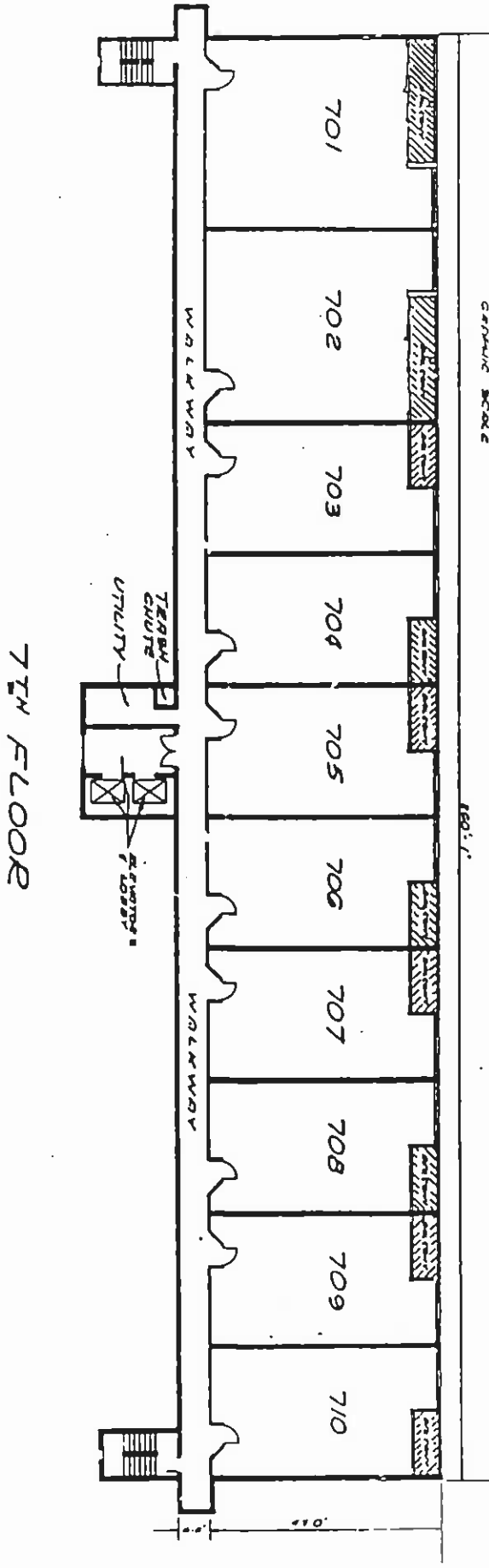
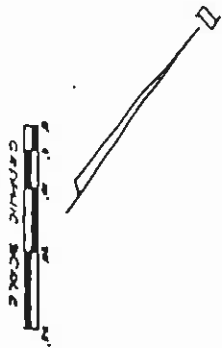

SOUTHPOINT OF DAYTONA
A CONDOMINIUM
 A PORTION OF GOVERNMENT LOTS 1 AND 2
 SECTION 13, TOWNSHIP 16 SOUTH, RANGE 33 EAST
 VOLUSIA COUNTY, FLORIDA



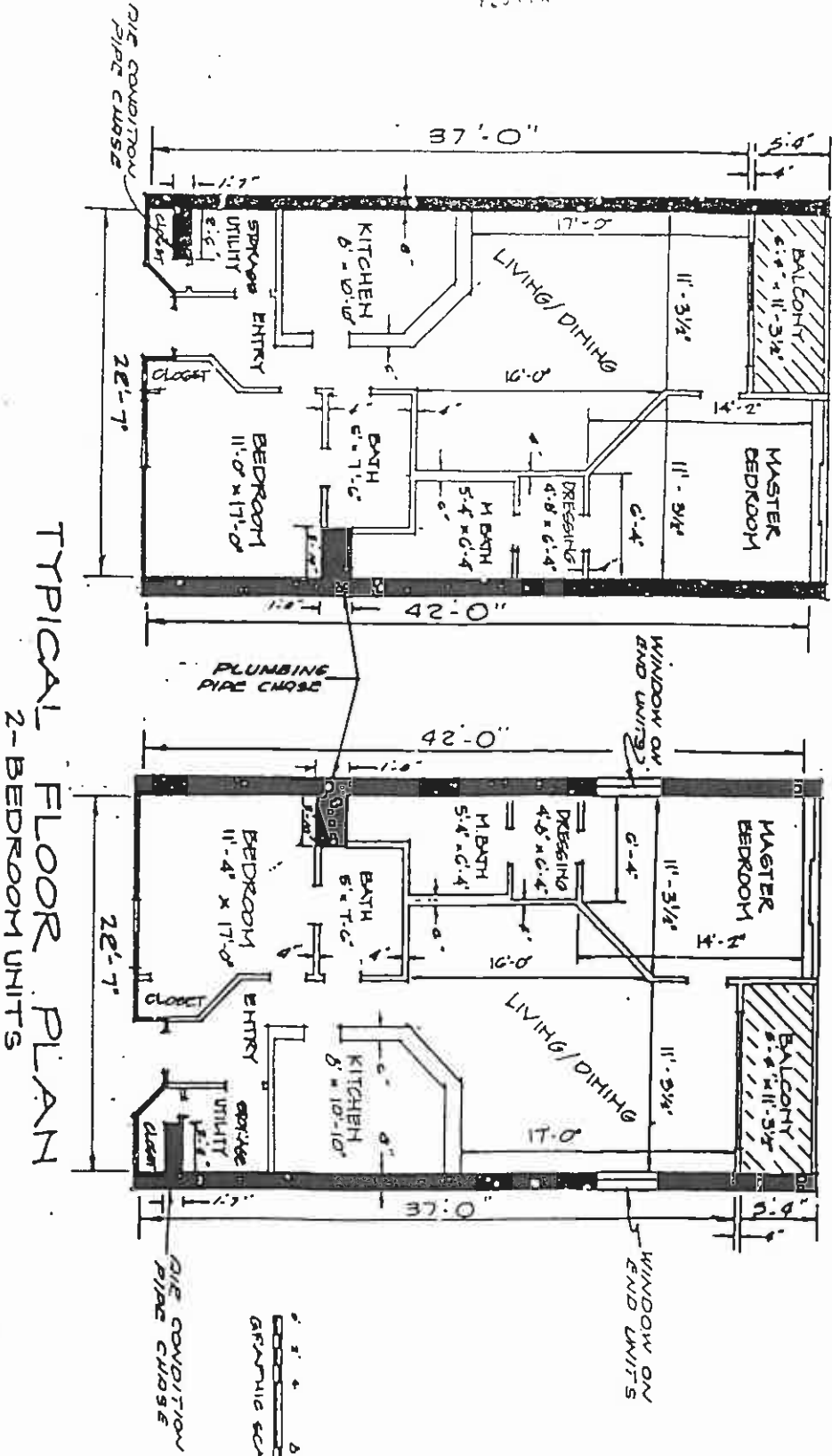
G^{3rd} FLOOR

EXHIBIT C - SURVEY 9

**SOUTHPOINT OF DAYTONA
A CONDOMINIUM**
A PORTION OF GOVERNMENT LOTS 1 AND 2,
SECTION 18, TOWNSHIP 16 SOUTH, RANGE
33 EAST, VOLUSIA COUNTY, FLORIDA



7TH FLOOR



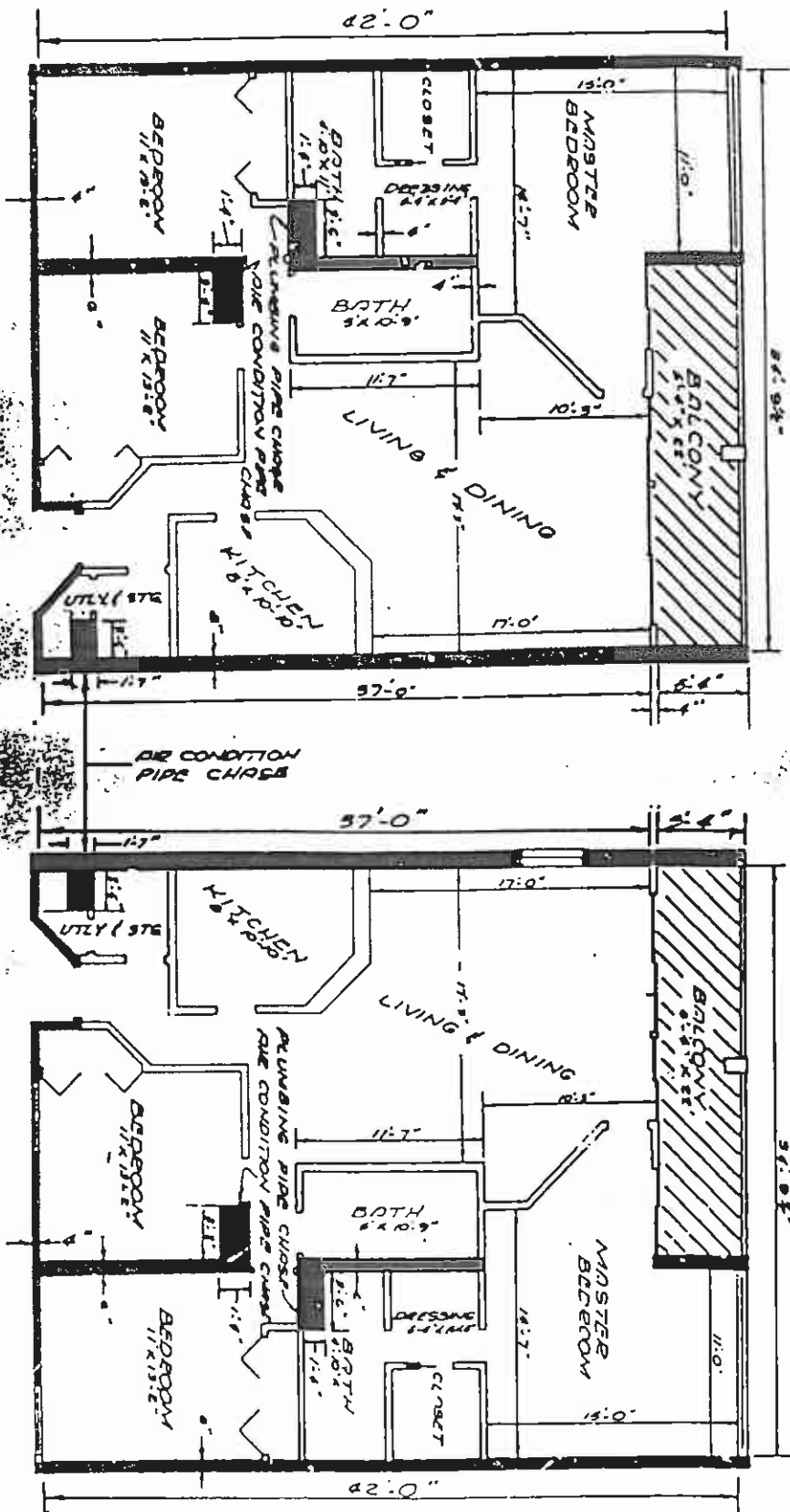
SOUTHPOINT OF DAYTONA
 A CONDOMINIUM
 A PORTION OF GOVERNMENT LOTS 1 AND 2, SECTION 19, TOWNSHIP 10 SOUTH, RANGE 33 EAST
 VOLUSIA COUNTY, FLORIDA

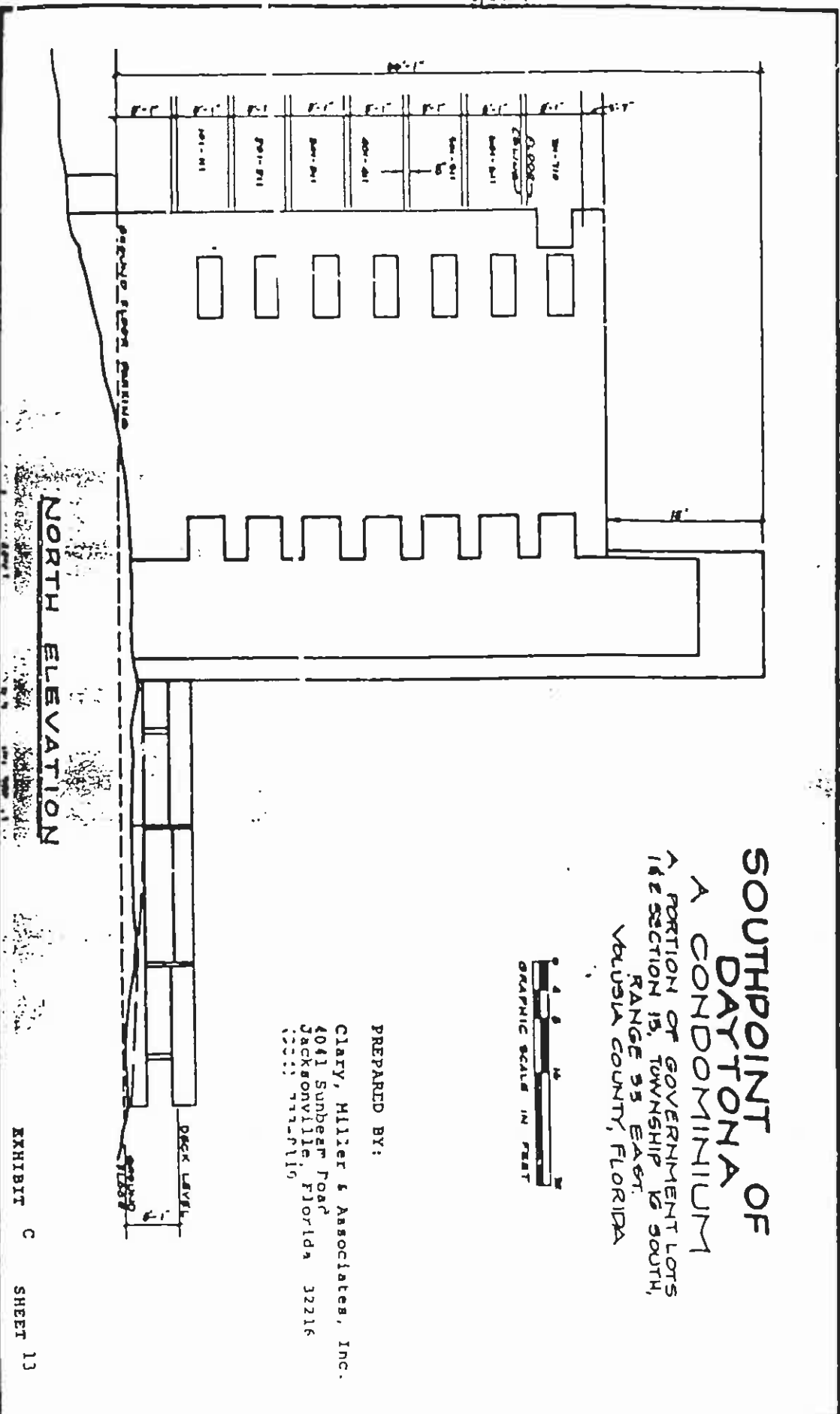
TYPICAL FLOOR PLAN
 2-BEDROOM UNITS

SOUTH POINT OF DAYTONA
A CONDOMINIUM
A PORTION OF GOVERNMENT LOTS 1 AND 2,
SECTION 13, TOWNSHIP 18 SOUTH, RANGE 33 EAST,
VOLUSIA COUNTY, FLORIDA

TYPICAL PENTHOUSE

EXHIBIT C SHEET 12





NORTH ELEVATION

SOUTHPOINT OF
DAYTONA
A CONDOMINIUM
A PORTION OF GOVERNMENT LOTS
1&2 SECTION 15, TOWNSHIP 15 SOUTH,
RANGE 35 EAST,
VOLUSIA COUNTY, FLORIDA



PREPARED BY:

Clary, Miller & Associates, Inc.
4041 Sunbeam Road
Jacksonville, Florida 32216
904-772-1119

SOUTHPOINT OF DAYTONA
A CONDOMINIUM
A PORTION OF GOVERNMENT LOT 1 AND 2, SECTION 14,
TOWNSHIP 30 SOUTH, RANGE 26 EAST,
VOLUSIA COUNTY, FLORIDA

CERTIFICATION

This is to certify that, in accordance with the provisions of Section 718.104 (4) (e), Florida Statutes, that the construction of the improvements described is substantially complete so that the material, together with the provisions of the Declaration of Condominium of Southpoint of Daytona, A Condominium, describing the condominium property is an accurate representation of the location and dimensions of the improvements, and further that the identification, location and dimensions of the common elements and of each unit can be determined from these materials.

Signed this 12 day of April A.D., 1984.



Gregory D. Clary
Registered Land Surveyor No. 3377
State of Florida.



PREPARED BY:

Clary, Miller & Associates, Inc.
4041 Sundean Road
Jacksonville, Florida 32217
904-733-8119

2557/1604

2557/1604

WARRANTY DEED

THIS INDENTURE, made this 16th day of April, 1984, between SOUTHPOINT OF DAYTONA, a Florida general partnership, grantor, and SOUTHPOINT OF DAYTONA, INC., a Florida corporation, grantee, whose post office address is 4319 Salisbury Road, Jacksonville, Florida, 32216.

WITNESSETH:

That the said grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), to it in hand paid by the said grantee, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained and sold to the said grantee its heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Volusia, State of Florida, to wit:

See Exhibit "A" attached hereto and by this reference made a part hereof.

And the said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said grantor has caused this instrument to be executed in its name by its General Partner the day and year first above written.

Signed, sealed and delivered in the presence of:

[Handwritten signatures]

SOUTHPOINT OF DAYTONA, a Florida general partnership

By *[Signature]*
J. D. Collins
Its General Partner

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing was acknowledged before me this 16th day of April, 1984, by J. D. Collins as General Partner of Southpoint of Daytona, a Florida general partnership on behalf of said partnership.

[Signature]
Notary Public
My Commission Expires: Apr 21, 1988

03637.4
FILED FOR RECORD
RECORD VERIFIED
APR 19 2 39 PM '84
[Signature]
CLERK OF COUNTY

DS Paid 46.00 Date APR 19 1984
County Volusia
[Signature]
Signature of Clerk

THIS INSTRUMENT PREPARED BY:
DONALD A. WARD
ADDRES: TOMPRE, HAILEY, JONES & BAY
ATTORNEYS AT LAW
1800 LINDL LIFE DRIVE
JACKSONVILLE, FLORIDA 32207

(over)

PJW/SOUTHPOINT WARRANTY

25571605

BOOK PAGE
EXHIBIT VOLUSIA

That part of the Southerly 300 feet of the Northerly 5,275 feet lying South of the South line of Curlew Street, a 40 foot street, and lying Easterly of South Atlantic Avenue, as now laid out, in Government Lots 1 and 2, Section 13, Township 16 South, Range 33 East, Volusia County, Florida.

Subject to a 5 foot Easement on the North line and subject to a 5 foot easement on the South line of property for foot traffic to Ocean.

And further subject to a 10 foot easement for utilities along, over and across the Westerly 10 feet of the above described lands.

The lands being further described as follows:

A portion of Government Lots 1 and 2, Section 13, Township 16 South, Range 33 East, Volusia County, Florida, being more particularly described as follows: BEGIN at the most Southerly corner of Sandcastle, A Condominium, as recorded in Map Book 32, Page 30, of the Public Records of said County; thence South $29^{\circ}59'15''$ East along the Northeasterly right-of-way line of Atlantic Avenue (a 40 foot right-of-way as now established) 300.75 feet to the Southerly line of the Northerly 5,275 feet of Government Lots 1 and 2, lying South of the South right-of-way line of Curlew Street (a 40 foot right-of-way); thence North $64^{\circ}02'40''$ East along last said line, 339 feet more or less, to the mean High Water Line of the Atlantic Ocean; thence Northerly along the mean High Water Line of the Atlantic Ocean, 300 feet more or less, to the intersection with the Northeasterly prolongation of the Southerly line of said Sandcastle, A Condominium; thence South $64^{\circ}02'40''$ West along last said line and the Southerly line of said Sandcastle, A Condominium, 347 feet more or less, to the POINT OF BEGINNING. Containing 2.3 acres, more or less.