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**DECLARATION OF CONDOMINIUM
OF
CROSS CREEK, A CONDOMINIUM**

Ormond Beach, FL 32174

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CROSS CREEK, A CONDOMINIUM

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**DECLARATION OF CONDOMINIUM
OF
CROSS CREEK, A CONDOMINIUM**

This Declaration made this _____ day of January, 2003, by **DARPINO DEVELOPERS, INC.**, a Florida Corporation, (hereinafter called "Developer"), for itself, its successors, grantees and assigns.

WHEREIN, the Developer makes the following declarations:

1. Purpose and Submission Statement. The purpose of this Declaration is to submit, and the Developer does hereby submit, the Condominium Property and improvements on those lands to the condominium form of ownership and use in the manner provided by The Condominium Act, (hereinafter "The Condominium Act") as it exists on the date hereof, currently designated as Chapter 718, Florida Statutes.

1.1 Name and address. The name by which this condominium is to be identified is CROSS CREEK, A Condominium, and its address is **70, 72, 74 and 76 Vining Court, Ormond Beach, Florida 32174.**

1.2. The Real Property to be Submitted to Condominium Ownership. The real property to be submitted to condominium ownership is owned in fee simple by Developer, and is located in Volusia County, Florida.

2. Definitions. The terms used in this Declaration shall have the meaning stated in The Condominium Act if defined therein. Other terms are defined as follows, unless the context otherwise requires:

2.1. 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, and may be either a Regular Assessment or a Special Assessment.

2.2. Association means Cross Creek Condominium Association, Inc., and its successors.

2.3. Board of Directors means the Board of Directors elected or appointed in accordance the Bylaws of the Association.

2.4 Bylaws means Bylaws of the Association.

2.5. Common Elements means the portions of the Condominium Property not included in the Units.

2.6. Common Expenses means all expenses properly incurred by the Association in the performance of its duties, including expenses of the operation, maintenance, repair, replacement, or protection of the condominium and association property, costs of carrying out the powers and duties of the association, and any other expense, whether or not included in the foregoing, designated as common expense by The Condominium Act, this Declaration, the documents creating the association, or the Bylaws. Common Expenses also include reasonable transportation services, insurance for directors and officers, road maintenance and operation expenses, in-house communications, and security services, which are reasonably related to

the general benefit of the Unit Owners even if such expenses do not attach to the condominium or property of the Condominium.

2.7. The Condominium means Cross Creek, a Condominium.

2.8. Condominium Property means the real property that is subjected hereby to condominium ownership, all improvements thereon, all Personal Property acquired by the Association, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

2.9. Condominium Parcel means a Unit together with the undivided share in the condominium that is appurtenant to the Unit.

2.10. Limited Common Elements means those condominium that are reserved for the use of a certain Unit or Units to the exclusion of all other Units, as specified herein.

2.11. Regular Assessment means an Assessment imposed pursuant to the annual budget, and does not mean a Special Assessment.

2.12. Rules and Regulations means those rules and regulations respecting the use of the Condominium Property that have been adopted by the Association from time to time in accordance with its Bylaws.

2.13. Special Assessment means any assessment levied against a Unit Owner other than the assessment required by the annual budget.

2.14. Unit means the part of the Condominium Property that is subject to exclusive ownership.

2.15. Unit Owner means the record Owner or Owners of a Unit in the Condominium.

2.16. Utility services as used in The Condominium Act, and as construed with reference to this Condominium, and as used in the Declaration and Bylaws shall include but not be limited to electric power, water, cable television or master antenna or satellite system, and garbage and sewage disposal.

2.17. Institutional Mortgage means a mortgage originally executed and delivered to an Institutional Mortgagee, which means a mortgage banker, mortgage lender, bank, savings and loan association, real estate investment trust, insurance company or Developer, including Developer's subsidiaries and affiliates.

3. Development plan. The Condominium is described and established as follows:

3.1. Survey. A survey of the land showing the location of the improvements and the proposed improvements on it, with Surveyor's Certificate shall be attached as Exhibit B.

3.2. Plans. The improvements upon the land are to be constructed in accordance with the plans and specifications prepared by **J.B. Fries and Associates, Inc.** The survey, plot plans and floor plans Exhibit A are detailed as follows:

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Exhibit A

A1	Legal Description
A2	Survey
A3	Plot Plan
A4	Site Plan w/ Details
A5	First Floor Plan
A6	Second Floor Plan
A7	Elevations

3.3. Easements.

A. Easements over Common Elements. A non-exclusive easement for ingress and egress in favor of each Unit Owner is hereby created over the driveways, walks, parking areas, stairs and other Common Elements as part of the Common Elements to provide each Unit Owner access to the public ways. No easement for ingress or egress shall be encumbered or subject in any way to be encumbered. A Unit Owner shall do nothing within or outside the Owner's Unit that interferes with or impairs the utility services or the right to ingress and egress. Developer reserves an easement over and through all of the Common Elements of the Condominium for sales purposes and may maintain a sales office and models on the Condominium Property until all of the Units of the Developer have been sold. The last mentioned provision may not be amended without the written consent of Developer. During such time as the Developer, its successors or assigns, owns any Units within the building and is carrying on any business in connection therewith, including the selling, renting or leasing of such Units, the Unit Owners, their guests and invitees shall in no way interfere with such activities or prevent access to such Units by the Developer, its successors or agents. The Association has full right and authority to grant permits, licenses, and easements over the Common Elements for utilities, road rights-of-way, and other purposes reasonably necessary or useful for the proper maintenance and/or operation of the Condominium.

B. Other Easements. Easements for general drainage, maintenance, access and utilities are granted to the Unit Owners, the Association, the City of Ormond Beach, and all applicable governmental entities.

3.4. Improvements - General description.

A. Unit Description. All Units have been assigned identifying letters as depicted on **Exhibit A, A3**. No Unit bears the same letter as any other Unit. The condominium shall consist of One (1) Building, consisting of four (4) units. The Condominium facilities, recreational or other facilities as shown in this Declaration will be used only by the Owners or occupants of the Units in this Condominium. A survey of the Condominium Property is attached to the Declaration as **Exhibit A, A2**.

B. Other Improvements. There are no other improvements.

3.5. Unit boundaries. The dimensions of each Unit are shown in Exhibit A3, A5 and A6, attached hereto and shall include that area, the boundaries of which are further described as follows:

A. Horizontal Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the vertical boundaries:

1) Upper Boundary shall be the horizontal plane of the undecorated, finished ceiling.

2) Lower Boundary shall be the horizontal plane of the undecorated finished floor.

B. Vertical (Perimetrical) Boundaries. The vertical boundaries of the unit are the vertical planes of the undecorated and/or unfinished inner surfaces of the walls bounding the unit extended to intersections with each other and with the unit's upper and lower boundaries. Exhibit A, A5 and A6, shows the perimeter boundaries of the units and the approximate dimensions of such boundaries, the walls separating each room within the units and the approximate dimensions of each room and the location of all doorways.

C. Boundaries - Further defined. The boundaries of the unit shall not include any spaces or improvements lying within the undecorated and/or unfinished inner surfaces of the perimeter walls, those surfaces above the undecorated finished ceilings of each unit, or those surfaces below the undecorated finished floor of each unit, and further shall not include those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of interior bearing walls and/or bearing partitions, and further, shall exclude all pipes, ducts, wires, conduits and other utilities running through an interior wall or partition for the furnishing of utility services to other units and/or for common elements.

D. Balconies. Each Unit shall have as a part of the Unit, as indicated in the floor plans, a balcony. All maintenance of the balcony shall be borne by the Owner of the Unit of which the balcony is a part.

3.6. Portions of the Unit Located Outside the Boundaries.

A. The Unit shall include the heating, hot water and air conditioning apparatus exclusively serving the Unit whether or not located within the boundaries of the Unit.

B. The Unit shall include any chute, flue, duct, wire, conduit, bearing wall, bearing column, air conditioning or heating compressor or equipment, any other fixture which lies completely or partially outside the designated boundaries of a Unit but which serves only that Unit.

C. The Unit shall include any shutters, doorsteps, stoops, porches, and all exterior doors, and windows, (including sliding glass doors) window and door screens, and all other fixtures and/or exterior protrusions attached to or designed to serve a single Unit, and which serves only that Unit, even though such fixtures are located outside the Unit's boundaries.

3.7. Common Elements. All property included in this Condominium that is not a portion of any Unit and which has not been designated as a limited common element shall be deemed Common Elements. The only Limited Common Elements in the Condominium are the individual driveways leading to each Unit's garage.

A. Use; charges. The Common Elements other than limited Common Elements shall be available for use by all Unit Owners without discrimination and without charge.

4. The Units. The Units of the Condominium are described more particularly, and the rights and the obligations of their Owners are established as follows:

4.1. Unit Letters. The Units shall be described as shown on **Exhibit A, A3**. Thus each Unit shall be identified by a Unit letter. The Unit letter begins with A, as the westernmost unit, and ends with D, as the easternmost unit.

4.2. Typical Unit plans. The floor plans for the different types of Units are set forth in Exhibit **A, A5 and A6**.

4.3. Appurtenances to Units. The Owner of each Unit shall own a share of Common Elements as an appurtenance to the Unit, including but not limited to the following items that are appurtenant to the several Units as indicated:

A. Ownership of Common Elements and Common Surplus. The undivided share in the land and other Common Elements and in the common surplus that are appurtenant to each Unit is as follows:

an undivided: 25%
 $4 \times 1/4 = 1$

There is no distinction based on the size of a Unit.

B. Use of Common Elements. Each Owner shall have as an appurtenance to a Unit, the use of the Common Elements in common with other Unit Owners in the manner elsewhere described.

C. Use of Limited Common Elements. Each Owner shall have the exclusive use of Limited Common Elements appurtenant to the Unit, in the manner elsewhere described.

D. Condominium Association Membership. Each Unit Owner shall be a Member of and have an interest in the funds, assets and common surplus held by the Condominium Association.

4.4. Liability for common expenses. Each Unit Owner shall be liable for a proportionate share of the Common Expenses, that share being the same as the undivided share in the Common Elements appurtenant to the Unit owned by the Unit Owner.

5. Maintenance, alteration and improvement. Responsibility for maintenance of the Condominium Property, and restrictions upon its alteration and improvement, shall be as follows:

5.1. Units.

A. Maintenance By the Association. The Association is not responsible for any maintenance of Units.

B. Maintenance By the Unit Owner. The responsibility of the Unit Owner shall be as follows:

To maintain, repair and replace at the Owner's expense all portions of the Unit. This shall be done without disturbing the rights of other Unit Owners.

The portions of a Unit to be maintained, repaired and replaced by the Unit Owner at his expense shall include but not be limited to the following items: windows, screens, sliding glass doors, air handling equipment for space cooling and heating, service

equipment, such as dishwasher, refrigerator, oven and stove, whether or not these items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slab, and inside paint and other inside wall and ceiling finishes. Unit Owners shall maintain and repair all balconies. Mechanical equipment and the installation of that equipment shall be such that its operation will not cause annoyance to the occupants of other Units.

Unit Owners shall report promptly to the Association any defect or need for repairs for which the Association is responsible.

C. Alteration and Improvement. Except as elsewhere provided, neither a Unit Owner nor the Association shall make any alteration in a Unit other than surface alterations that do not affect the integrity of the structure, or remove any portion of a Unit, or make any additions to a Unit, or do anything that would jeopardize the safety or soundness of the building, including but not limited to, drilling, boring, cutting or sawing into the floor or ceiling of a Unit, or impair any easement, without first obtaining approval in writing of Owners of all Units in which the work is to be done and the Owners of all Units affected by the work to be done and the approval of the Board of Directors of the Association. If the alteration or improvement will change the appearance of any portion of the exterior of the building, the change in appearance shall be approved also by the Owners of 75% of the Common Elements at a meeting of the Unit Owners called for that purpose. A copy of plans for all work prepared by an architect licensed to practice in the State shall be filed with the Association prior to the start of the work. The Board of Directors shall permit hurricane shutters, pursuant to 718.113(5) Florida Statutes, or other shutters or awnings meeting specifications adopted by the Board of Directors. No Unit Owner shall permit the placement of carpet or any other flooring on the floor of the balcony without consent of the Association. The Association shall only deny approval based upon the potential for deterioration of the concrete as the result of any such flooring. No Unit Owner shall permit a change in appearance of any portion of the Condominium building and/or Condominium Property, including painting or decorating the walls of the balcony, without the consent of the Association.

5.2. Common elements.

A. Maintenance By the Association. The maintenance and operation of the Common Elements and Limited Common Elements shall be the responsibility of the Association and the cost shall be a common expense. Any cost of maintaining or repairing Limited Common Elements that is allocable to a particular Unit shall be charged to the Unit. The Association shall maintain:

All boundary walls and boundary slabs of a Unit, except interior surfaces; all portions of a Unit contributing to the support of the building, which portions to be maintained shall include but not be limited to the outside walls of the building and all fixtures on its exterior, boundary walls of Units, floor and ceiling slabs, load-bearing columns and load-bearing walls

All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services contained in walls or space that are not part of a Unit unless such conduits, ducts, plumbing, wiring or other facility serves only the Unit to which it is adjacent; and all such facilities contained within a Unit that service part or parts of the Condominium other than the Unit within which contained; and

All incidental damage caused to a Unit by work performed by the Association shall be repaired promptly at the expense of the Association.

B. Alteration of Common Elements by Developer. Prior to completion of the Buildings, the Developer may alter the Common Elements by modifying the footprint of buildings, so long as the plot plan and other documents set forth in Exhibit A are modified to comport with the actual dimensions prior to recording. Such change will not require the approval of Unit Owners. After the completion of the buildings and improvements included in the Common Elements contemplated by this Declaration, there shall be no alteration nor further improvement of the Common Elements or acquisition of additional properties without prior approval in writing by the Owners of not less than Seventy-Five (75%) Percent of the voting interest. Such will also require the approval of HUD or the VA if required by the regulations of such agency as a condition of approving loans on Units within the Condominium.

C. Disposition of personal property. Any personal property acquired by the Association may be sold or mortgaged or otherwise disposed of by the Association.

6. Assessments. The making and collection of assessments against Unit Owners for common expenses shall be pursuant to the Bylaws and subject to the following provisions:

6.1. Share of common expense. Each Unit Owner, regardless of how his or her title has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable shall be liable for a proportionate share of the common expenses that come due while the Unit Owner owns the Unit. Additionally, a Unit Owner is jointly and severally liable with the previous Owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous Owner the amounts paid by the Owner. In the event of default in the payment of assessments, the Unit Owner shall be liable, in addition to the assessment, for interest and costs of collection, including reasonable attorney's fees, and shall share in the common surplus, those shares being the same as the undivided share in the Common Elements appurtenant to the Unit. Each assessment against a Unit is the personal obligation of the Unit Owner at the time the assessment becomes due.

6.2. Interest; application of payments. The portions of assessments and installments on assessments that are not paid when due shall bear interest at the highest rate allowed by law from the date when due until paid. Any payment received by the Association shall be applied first to any interest accrued, then to the late charge, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment.

6.3. Late Payments.

A. Late Charges. Assessment installments that are unpaid for a period of Five (5) days after date due shall bear interest at the rate of eighteen (18%) percent per annum from the due date until paid. In addition, a late charge of the greater of twenty-five (\$25.00) dollars or five (5%) percent of a delinquent installment, or if the applicable statute permits a higher late charge, the highest amount permitted by statute, shall be assessed.

B. Liens. The Association shall have a lien upon a Unit for any unpaid assessment or installment on an assessment levied against that Unit, together with interest and late charges thereon, that are not paid when due. The lien for unpaid assessments shall also secure reasonable attorneys' fees, including but not limited to fees for appellate court representation, incurred by the Association incident to the collection of an assessment or enforcement of a lien.

Said lien shall be effective as and in the manner provided for by The

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Condominium Act and shall have the priorities established by said Act. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien, and to apply as a cash credit against its bid all sums due as provided herein and encompassed by the lien enforced. In the event of such foreclosure, the Unit Owner may be required by the Court to pay a reasonable rental for the Unit for the period of time said Unit is occupied by the Unit Owner or anyone claiming by, through or under said Unit Owner, and the Plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect same from the Unit Owner and/or occupant.

6.4. Assessments Against Developer-Owned Units. Developer shall be liable for assessments on Units owned by Developer just like any other Unit Owner.

6.5. Protection of Mortgagee. The lien of a first mortgage held by an Institutional First Mortgagee shall have priority over a lien for assessments. Failure to pay assessments shall not constitute a default as to a loan held by an Institutional Mortgagee unless its mortgage so provides. Furthermore, in accordance with Florida Statute, the liability of a first mortgagee or its successor or assignees who acquire title to a Unit by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due prior to the mortgagee's acquisition of title is limited to the lesser of:

1. The unit's unpaid common expenses and regular periodic assessments which accrued or came due during the 6 months immediately preceding the acquisition of title and for which payment in full has not been received by the association; or

2. One percent of the original mortgage debt. The provisions of this paragraph apply only if the first mortgagee joined the Association as a defendant in the foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location which was known to or reasonably discoverable by the mortgagee.

As a result of non-payment, such unpaid share of Common Expenses or assessments shall be, if possible, collected from the proceeds of the mortgage sale, if any, which would otherwise accrue to the benefit of the Unit Owner against whom the foreclosure proceedings were maintained, or in the event there are not sufficient funds available for such purpose, then such unpaid share of Common Expenses or assessments shall be determined to be Common Expense collectable from all of the Unit Owners including such acquirer, his heirs, legal representative, successors, and assigns. The lien for assessments and/or dues first becoming due and payable after the recording of said certificate or deed shall not be impaired and shall be effective as to the grantee of such Certificate of Title. The Association, acting through its Board of Directors, shall have the right to assign its claim and lien rights for the recovery of any unpaid assessments to Developer, to any Unit Owner, group of Unit Owners or to any third party.

6.6. Rights of construction lender. If the lender providing the funds to construct the Condominium shall foreclose the lien of its mortgage or shall accept a deed in lieu of foreclosure to itself or its designee, such lender or its designee shall succeed to the rights of and enjoy all of the benefits of the original Developer hereunder.

6.7. Right of Developer to Waive Reserves. Pursuant to Florida statute, prior to turnover of control of the Association to Unit Owners other than Developer, the Developer may vote to waive the reserves or reduce the funding of reserves for the first Two (2) fiscal years of the Association's operation, beginning with the fiscal year in which the Declaration is

recorded, after which time reserves may be waived or reduced only upon the vote of a majority of all non-developer voting interests voting in person or by limited proxy at a duly called meeting of the Association. If a meeting of the Unit Owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect. After the turnover, Developer may vote its voting interest to waive or reduce the funding of reserves.

7. Association. The operation of the Condominium shall be by Cross Creek Condominium Association, Inc., a corporation not for profit under the laws of Florida, which shall fulfill its functions pursuant to the following provisions:

7.1. Membership. All Unit Owners, including Developer as to Units owned by the Developer, shall automatically be members of the Association, and their membership shall automatically terminate when they no longer own such an interest.

7.2. Voting Rights. There shall be one vote permitted for each Unit. Where a Condominium Unit is owned by an artificial entity or by more than one person, the entity or all the Owners thereof shall be collectively entitled to the vote assigned to such Unit and such Owners shall, in writing, filed with Association, designate an individual who shall be entitled to cast the vote on behalf of the Owners of such Unit until the authorization is changed in writing.

7.3. Articles of Incorporation. A copy of The Articles of Incorporation of the Association is attached as Exhibit B.

7.4. The Bylaws. A copy of the By-Laws of the Association is attached as Exhibit C.

7.5. Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by any injury or damage resulting from latent or unknown condition of the property maintained and repaired by the Association.

7.6. Rosters.

A. Owners of Units. The Association shall maintain a roster of names and mailing addresses of Unit Owners. Each Unit Owner shall furnish to the Association a copy of the record evidence of his title, which evidence shall entitle a new Unit Owner to be included in the roster when ownership has been approved by the Association in the manner elsewhere described. Such roster shall show the name and mailing address of the individual designated in writing by the Unit Owner(s) as entitled to cast the vote assigned to the Unit on behalf of the Owners.

B. Mortgages. The Association shall maintain a roster that shall contain the name and address of each Owner and holder of a mortgage upon a Unit in the Condominium of which notice is given to the Association. This notice shall consist of a copy of the recorded instrument evidencing the interest of the mortgagee, which term when used in this Declaration shall include any Owner and holder of a mortgage. The mortgagee shall be stricken from the roster upon receipt by the Association of a request from the mortgagee or of a certified copy of a recorded release or satisfaction of the mortgage. Notice of the removal shall be given to the mortgagee unless the removal is requested by the mortgagee.

7.7. 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 his Unit.

7.8. Approval or Disapproval of Matters. Whenever the decision of a Unit Owner is required upon any matter, whether or not the subject of an Association meeting, that decision shall be expressed by the same person who would cast the vote of that Owner if in an Association meeting.

8. Insurance. The hazard, windstorm, flood, liability and other casualty insurance, as applicable, that may be purchased by the Association shall be governed by the following provisions:

A. Purchase. All insurance policies required for the benefit of the Association shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Florida.

B. Named Insured. The named insured shall be the Association individually and as agent for the Owners of Units covered by the policy without naming them, and shall include mortgagees listed in the roster of mortgagees who hold mortgages upon Units covered by the policy, whether or not the mortgagees are named. Unit Owners may obtain insurance coverage at their own expense upon their personal property and for their personal liability.

C. Custody of policies and payment of proceeds. All policies purchased by the Association shall provide that payments for losses made by the insurer shall be paid to the Association, and all policies and endorsements on them shall be held by the Association.

D. Approval of company issuing and form of policies, etc. Each policy shall be in a form and amount and written by an insurance company approved by the Board of Directors of the Association. A copy of each policy shall be furnished to each institutional mortgagee upon request.

8.1. Coverages.

A. Casualty. The Association shall obtain and maintain adequate insurance, in an amount equal to the maximum insurable replacement values insuring the Association, the Association Property, the Common Elements, and the Condominium Property required to be insured by the Association. Every hazard policy purchased to protect a building shall provide that the word "building" wherever used in the policy includes, but is not necessarily limited to, fixtures, installations, or additions comprising that part of the building within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the individual Units initially installed, or replacements thereof of like kind or quality, in accordance with the original plans and specifications, or as they existed at the time the Unit was initially conveyed if the original plans and specifications are not available. The coverage shall exclude foundation and excavation costs, that part of the value of each Unit occasioned by special improvement not common to Units otherwise comparable in construction and finish, and all increases in value of Units occasioned by alterations, betterments and further improvement. Values of insured property shall be determined annually by the Board of Directors of the Association after receiving the advice of the insurance carrier writing the insurance. Insurance coverage shall afford protection against:

Loss or damage by fire and other hazards covered by a standard extended coverage

endorsement, and such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the Condominium Property. The bailee liability, if any, of the Association to Unit Owners shall be insured. The policies shall state whether the following items are included within the coverage in order that Unit Owners may insure themselves if the items are not insured by the Association: air handling equipment for space cooling and heating; service equipment, such as dishwasher, refrigerator, oven, stove, and water heater, whether or not those items are built-in equipment; interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor slabs, and inside paint and other inside wall and ceiling finishes. When appropriate and possible, the policies shall waive the insurer's right to:

Subrogation against the Association and against the Unit Owners individually and as a group; and

The pro-rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and

Avoid liability for a loss that is caused by an act of the Board of Directors of the Association, or by a member of the Board of Directors of the Association or by one or more Unit Owners.

B. Public Liability insurance shall be carried in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired automobile and non-owned automobile coverages, and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

C. Worker's Compensation insurance shall be carried if required by law.

D. Officer and Directors Indemnification insurance shall be carried as provided in the Bylaws, but may be waived.

E. Fidelity Bond. The Association shall obtain and maintain adequate insurance or fidelity bonding of all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association at any one time. The phrase "persons who control or disburse funds of the association" includes, but is not limited to, those individuals authorized to sign checks and the president, secretary, and treasurer of the association. The Association shall bear the cost of bonding.

F. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense. Evidence of the payment of premiums shall be furnished by the Association to any Unit Owner or Mortgagee that encumbers a Unit, upon request.

8.2. Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Association. Such insurance policies shall contain a provision that the proceeds covering property losses shall be paid over to the Association only after the Association has provided proof that the fidelity bonding of the officers and directors of the Association has been increased by the amount of such proceeds. The duty of the Association shall be to receive and

hold the insurance proceeds and other funds that are paid to it in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees.

A. Unit Owners. The Unit Owner is entitled to an undivided share in the all insurance policies, that share being the same as the undivided share in the Common Elements appurtenant to his Unit. Where damage is caused to a particular Unit or Units, and Association insurance is payable therefor, the payment of proceeds for the actual damage does not violate this provision.

B. Mortgagees. In the event the Association has notice of a mortgage on the 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 distributions of proceeds made to the Unit Owner and mortgagee.

8.3. Distribution of Proceeds. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial Owners in the manner hereafter provided in the section entitled "reconstruction or repair after casualty."

8.4. Association as Agent. The association is 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, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

8.5. Benefit of Mortgagee. Certain provisions in this section entitled "insurance" are for the benefit of mortgagees of Condominium Parcels. All of these provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by that mortgagee.

9. Reconstruction and Repair after Casualty.

9.1. Determination Whether to Reconstruct and Repair. Whether or not Condominium Property damaged by casualty shall be reconstructed and repaired shall be determined in the following manner:

A. Lesser Damage. If Units to which 50% of the Common Elements are appurtenant are found by the Board of Directors of the Association, after receiving the opinion of the mortgagee with greatest number of mortgages in the Condominium, and receiving the opinion of an architect licensed to practice in this State, to be tenantable after the casualty, the damaged property shall be reconstructed and repaired.

B. Major damage. If Units to which more than 50% of the Common Elements are appurtenant are found by the Board of Directors of the Association after receiving the opinion of the mortgagee with the greatest number of mortgages in the Condominium and receiving the opinion of an architect licensed to practice in the State, to be not tenantable after the casualty, whether the damaged property will be reconstructed and repaired or the Condominium terminated shall be determined in the following manner:

Immediately after the determination of the amount of insurance

proceeds, the Association shall give notice to all Unit Owners of the casualty, the extent of the damage, the estimated cost to rebuild and repair, the amount of insurance proceeds and the estimated amount of assessments required to pay the excess of the cost of reconstruction and repair over the amount of insurance proceeds.

The notice shall call a meeting of Unit Owners to be held within thirty (30) days from the mailing of the notice.

If the reconstruction and repair is approved at the meeting by the Owners of 75% of the Common Elements, the damaged property will be reconstructed and repaired; but if not so approved, the Condominium shall be terminated without requirement of agreement as elsewhere provided. Mortgagees holding mortgages on any of the Units may appear at such meeting in person or by a representative and express their views.

The approval of a Unit Owner may be expressed by vote or in writing filed with the Association at or prior to the meeting.

The expense of this determination shall be assessed against all Unit Owners as a common expense.

C. Certificate. The Unit Owners may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed and repaired.

9.2. Report of damage. If any part of the Condominium Property shall be damaged and insurance proceeds or other funds are paid to the Association on account of the damage, a report of the damage shall be submitted by the Association to the Unit Owners and mortgagees as shown by the records of the Association. The report shall include the following information:

Date and cause of damage.

Whether the damaged property will be reconstructed and repaired or the Condominium terminated.

If the damaged property will be reconstructed and repaired, the report shall include the following information:

Schedule of damage for which the Association has responsibility for reconstruction and repair and the estimated costs of reconstruction and repair.

Whether damaged property for which the Association has responsibility for reconstruction and repair includes structural parts of a building.

Schedule of damage for which Unit Owners have the responsibility and repair and the estimated costs of each Owner for reconstruction and repair.

The report of damage shall be substantiated by an attached report of an architect qualified to practice in this state.

9.3. Responsibility for Reconstruction and Repair. The responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of the Condominium

Property as provided in the section entitled "Maintenance, Alteration and Improvement."

9.4. Plans and Specifications. Any reconstruction and repair must be substantially in accordance with the plans and specifications for the original improvements, portions of which are attached as exhibits; or, if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is one or more buildings, by the Owners of not less than 75% of the Common Elements, including the Owners of all Units the plans for which are to be altered.

9.5. Assessments; Determination of Sufficiency of Funds.

A. Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair for which the Association is responsible, or if at any time during that work or upon completion of the work the funds available for the payment of the costs are insufficient, assessments shall be made by the Association against all Unit Owners in sufficient amounts to provide funds for the payment of those costs. The assessments shall be made as for a common expense, except that the cost of construction, reconstruction and repair occasioned by special improvement made at the request of the Owner and not common to other Units shall be assessed to the Owner of the Unit.

B. Determination of sufficiency of funds. If the estimated costs of reconstruction and repair for which the Association is responsible do not exceed \$10,000, the sufficiency of funds to pay the costs shall be determined by the Board of Directors of the Association and the sums paid upon the assessments shall be held by the Association. If the estimated costs exceed \$10,000, the sufficiency of funds to pay the costs shall be determined by an architect qualified to practice in Florida and employed by the Association to supervise the work, and the sums paid upon the assessments shall be held by the Association.

9.6. Disbursement of Funds. The funds held by the Association after a casualty, which will consist of proceeds of insurance and the sums collected from assessments against Unit Owners on account of the casualty, shall be disbursed in the following manner and order:

A. Termination of the Condominium. If the Condominium is terminated, either by agreement after lesser damage or by failure of the Unit Owners to approve reconstruction and repair after major damage, the remaining funds shall be deemed to be Condominium Property and shall be owned by the Unit Owners as tenants in common in the undivided shares in which they own the Common Elements prior to the termination. The balance of the funds shall be distributed to the beneficial Owners as deemed appropriate by the Association in the amounts certified by the Association, remittances to Unit Owners and their mortgagees being made payable jointly to them.

B. Reconstruction and Repair of Damage. If the damaged property is reconstructed and repaired, the funds shall be disbursed in the following manner:

By Association - Damages of \$10,000 or Less. If the estimated costs of reconstruction and repair that is the responsibility of the Association do not exceed \$10,000, the funds shall be disbursed in payment of these costs upon the order of the Association; provided, however, the funds shall be disbursed in the manner hereafter provided for the reconstruction and repair of damage of more than \$10,000 if the damaged property includes structural parts of a building, or if requested by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the funds.

By Association - Damage of More than \$10,000. If the estimated costs of reconstruction and repair that is the responsibility of the Association exceed \$10,000, the funds shall be disbursed in payment of these costs in the manner required by the Board of Directors of the Association; provided, however, that an architect qualified to practice in Florida and employed by the Association to supervise the work shall approve all disbursements as being due and properly payable.

By Unit Owners. If there is a balance of insurance proceeds after payment of costs of reconstruction and repair that is the responsibility of the Association, this balance shall be distributed to Owners of damaged Units who have responsibility for reconstruction and repair of their Units. The distribution shall be in the shares that the estimated cost of reconstruction and repair of this damage in each damaged Unit bears to the total of these costs in all damaged Units; provided, however, that no Unit Owner shall be paid an amount in excess of the estimated costs for his Unit. If there is mortgage upon a Unit, the distribution shall be paid to the Unit Owner and the mortgagee jointly and they may use the proceeds as they may determine.

Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance remaining after payment of the costs for which the funds are collected, the balance shall be distributed to the beneficial Owners of the funds, remittances to Unit Owners and their mortgagees being made payable jointly to them; provided, however, that the part of a distribution to a Unit Owner that is not in excess of assessments paid by that Owner into the funds shall not be made payable to any mortgagee.

C. Reliance upon certificates. The Board of Directors of the Association shall make a determination as to the existence of certain facts upon which the distribution of funds is conditioned and a certificate of the Association executed by its president and secretary, copies of which shall be provided to each Unit and Owner and their mortgagees, stating:

Whether the damaged property will be reconstructed, repaired or the Condominium terminated.

Whether or not assessments will be made against Unit Owners.

That sums to be paid are due and properly payable, the name of the payee and the amount to be paid.

The names of Unit Owners to receive distribution of funds and the amounts to be distributed to the; provided, however, that when a mortgagee is required by this instrument to be named as payee of a distribution to a Unit Owner, the Association also shall name the mortgagee as payee of any distribution of insurance proceeds to a Unit Owner.

D. Proviso. Provided, however, that under the following circumstances the approval of the architect elsewhere required shall be first obtained by the Association upon disbursements in payment of costs of reconstruction and repair:

When the report of damage shows that the damaged property includes structural parts of a building.

When the report of damage shows that the estimated costs of reconstruction and repair that is the responsibility of the Association exceed \$10,000.

If required by the Association or by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the funds to be disbursed.

9.7. Benefit of mortgagees. Certain provisions in the section entitled "Reconstruction or repair after casualty" are for the benefit of mortgagees of Condominium Parcels. All of these provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by the mortgagee.

10. Use restrictions. The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists and the buildings in useful condition:

10.1. Units. Each of the Units shall be utilized for residential purposes only by no more than three (3) adults (whether related to each other or not), and minors for whom an adult residing in the Unit is legally responsible. Provided, however, that the total occupancy for a Unit shall never exceed two persons (whether minor or adult) per bedroom.

10.2. Common elements. The Common Elements shall be used only for the purpose for which they are intended in the furnishing of services and facilities for the enjoyment of the Units by their occupants.

10.3. Nuisances. No nuisances shall be allowed upon the Condominium Property, nor any use or practice that is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate, nor any fire hazard allowed to exist. No Unit Owner shall permit use of a Unit or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property above that required when the Unit is used for the approved purposes.

10.4. Exterior Appearance. No clothes, sheets, blankets, laundry or other articles shall be hung out or exposed from any balcony or the Common Elements. Nothing shall be hung or displayed on the outside walls of the building and no awning, canopy, shade, window guard, ventilator, fan, air conditioning device, radio or television antenna or satellite receiving device may be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Association, with the exception of hurricane shutters meeting the specifications adopted by the Board of Directors pursuant to Florida Statute 718.113. No materials of any nature or description, including but not limited to window film for sun and heat control may be affixed, adhered or otherwise caused to remain on the interior or exterior of any window or door. No sign may be placed in the window of any Unit. No For Sale sign may be placed anywhere on the property, except by Developer selling Units in the ordinary course of business. As provided by Florida Statute 717.113(4), any Unit Owner may display one portable, removable United States flag in a respectful way.

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

10.6. Leasing. Entire Units may be leased or rented provided the occupancy is by related persons or unrelated persons not exceeding the number permitted by 10.1 above, and

the lease term is not less than six (6) months in duration. Approval of leases is not required, but the Association may require a security deposit to protect Common Elements pursuant to Florida statute.

10.7. Rules and Regulations. Reasonable regulations concerning the appearance and use of Condominium Property may be made and amended from time to time by the Association in a manner provided by its Articles of Incorporation and Bylaws. Copies of those regulations and amendments shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request. All lessees and purchasers are deemed to be on notice of the contents of, and obliged to comply with, such Rules and Regulations even if they have not received a copy.

10.8. Entry Into Units. The Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or of any portion of a Unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a Unit or Units.

10.9. Pets - Limitation or prohibition. The Condominium Association, acting through its Board of Directors, may impose regulations, restrictions or limitations upon the keeping of pets and may appoint a committee for the purpose of enforcing such regulations in accordance with rules of procedure as contained in the Bylaws. Up to two (2) domestic pets (limited to dogs or cats), shall be permitted in a Unit provided the total weight of each pet does not exceed thirty (30) pounds at maturity. No birds, reptiles or any other type of pet is permitted, except for fish. This provision may not be amended except on the affirmative vote of seventy-five percent (75%) of the Unit Owners in the manner for amendments as elsewhere provided in this instrument. The Rules and Regulations of the Association may restrict the areas in which pets may be walked or may be permitted, and may also require waste removal.

10.10. Parking Lot Restrictions. In addition to the fact that one parking space is designated the same as a Unit and is a Limited Common Element appurtenant to the Unit, there are restrictions as to the type of vehicle that can be parked on the Condominium Property for more than two (2) hours. The types of vehicles that may not be parked for more than two hours on Condominium Property include, but are not limited to: trailers, step vans, vehicles with business signs affixed, motor homes, trucks other than standard pick-up trucks, any vehicle that would qualify as a commercial vehicle. The Board of Directors may impose additional limitations or modify the definitions of the above described vehicles.

10.11. Proviso. Provided, however, that until Developer has closed the sales of all of the Units and of the Condominium, neither the Unit Owners nor the Association nor the use of the Condominium Property shall interfere with the Developer's sale of the Units. Developer may make such use of the unsold Units and Common Elements, without charge, as may facilitate sales of Units, including but not limited to maintenance of a sales office, the showing of the property and the display of signs.

11. Maintenance of Community Interests. In order to maintain a community of congenial residents who are financially responsible and thus protect the value of the Units, the transfer of Units by any Owner other than the Developer shall be subject to the following provisions as long as the Condominium exists and the buildings in useful condition exist upon the land, which provisions each Unit Owner covenants to observe:

11.1. Transfers subject to approval.

A. Sale. No Unit Owner may dispose of a Unit or any interest in a Unit by sale without approval of the Association except to the Owner of another Unit.

B. Lease. There are no restrictions on Leasing other than those set forth in 10.6 above and 11.2A and 11.3B below.

C. Gift. If any Unit Owner shall acquire his title by gift, the continuance of ownership of his Unit shall be subject to the approval of the Association. However, this restriction shall not apply to gifts by a Unit Owner to a member of his immediate family (viz. spouse, children or parents).

D. Other transfers. If any Unit Owner shall acquire title by any manner not considered in the foregoing subsections, other than by devise or inheritance upon death of an Owner, which transfer is not hereby restricted, the continuance of ownership of the Unit shall be subject to the approval of the Association.

11.2. Approval by Association. The approval of the Association that is required for the transfer of ownership of Units shall be obtained in the following manner:

A. Notice to Association.

Sale. A Unit Owner intending to make a bona fide sale of a Unit or any interest in it shall give to the Association notice of that intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. The notice at the Unit Owner's option may include a demand by the Unit Owner that the Association furnish a purchaser of the Unit if the proposed purchaser is not approved, and if that demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell.

Lease. A Unit Owner intending to make a bona fide lease of a Unit shall give to the Association notice of that intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require, and an executed copy of the proposed lease. The Board of Directors shall have the right to require that a security deposit in an amount not to exceed the equivalent of one (1) month's rent be deposited into an escrow account maintained by the Association, each time a Unit is leased for occupancy by a non-owner. The security deposit shall protect against damages to the Common Elements or association property. Within 15 days after a tenant vacates the premises, the Association will refund the full security deposit or give written notice to the tenant and the Unit-owner of any claim made against the security. Disputes under this section shall be handled in the same fashion as disputes concerning security deposits under 83.49, Florida Statutes.

Pursuant to Florida Statute, a lease may be disapproved if the Owner is delinquent in assessments.

All leases shall be accompanied by the following statement signed by the prospective lessee: "The Restrictive Covenants of Cross Creek, A Condominium, Declaration of Condominium and all applicable Rules and Regulations in effect have been discussed with lessee who by signing below acknowledges receiving a copy of said Rules and agrees to honor these regulations for the duration of the lease."

Gifts and other transfers. A Unit Owner intending to make a gift of a Unit

or any interest in a Unit, and a Unit Owner who has obtained his title by gift, or by any other manner not previously approved by the Association, shall give to the Association notice of the proposed gift or of the acquiring of title, together with such information concerning the transferee as the Association may reasonably require, and a certified copy of the instrument evidencing a transferee's title. A life estate deed of any type, or a trust or other instrument that provides a right of the beneficiary to reside on or enjoy a Condominium Parcel while the Owner is alive, shall be deemed to be a gift. As gifts to certain family members are permitted by 11.1C above, are not restricted, approval is not applicable as to such transfers, but notice still must be provided.

Failure to give notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Unit, the Association, at its election and without notice, may approve or disapprove the transaction or ownership. If the Association disapproves the transaction or ownership, the Association shall proceed as if it has received the required notice on the date of that disapproval.

Costs. A Unit Owner who is required to give notice to the Association of a transfer of ownership shall pay a reasonable fee to the Association in an amount determined by the Association, but which shall not exceed the statutorily permitted amount in effect at the time of the application, to cover the costs incident to the determination by the Association. The fee shall be paid with the giving of the notice, and the notice shall not be complete unless the fee is paid; and if the notice is not given, the fee shall be assessed against the party owning the Unit at the time of assessment.

B. Certificate of approval.

Sale. If the proposed transaction is a sale, then within fifteen (15) days after receipt of the notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association in recordable form. The certificate shall be recorded in the Public Records of Volusia County, Florida at the expense of the purchaser.

Lease. If the proposed transaction is a lease, unless the Owner is delinquent in assessments, the required language is not stated in the lease, or any security deposit required by the Association is not paid, then within fifteen (15) days after receipt of the notice and information the Association must approve the lease and give notice as to whether or not a security deposit is required.

Gifts and other transfers. If the notice is of an intended gift or the Unit Owner giving notice has acquired his title by gift, or in any other manner not previously approved by the Association, then within fifteen (15) days after receipt of the notice and information the Association must either approve or disapprove the donee or the continuance of the transferee's ownership of his Unit. If approved, the approval shall be stated in a certificate executed by the president and secretary of the Association in recordable form. The certificate shall be recorded in the Public Records of Volusia County, Florida at the expense of the Unit Owner. If the recipient is a family member as described above, an approval document shall be provided for recording.

11.3. Disapproval by the Association. If the Association shall disapprove a transfer of ownership of a Unit, the matter shall be treated in the following manner:

A. Sale. If the proposed transaction is a sale and if the notice of sale given by the Unit Owner shall so demand, then within fifteen (15) days after receipt of the notice and information the Association shall deliver or mail by certified mail to the Unit Owner an agreement signed by a purchaser approved by the Association and obligating the purchaser to buy the Unit upon the terms hereafter stated. The seller shall be obligated to sell the Unit to the purchaser upon the following terms:

At the option of the purchaser to be stated in the agreement, the price to be paid shall be that stated in the disapproved contract for sale or shall be the fair market value 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 decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

The purchase price shall be paid in cash, or upon terms approved by the seller.

The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase, or within ten (10) days after the determination of the sale price if it is by arbitration, whichever is the later.

A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

If the Association shall fail to provide a purchaser upon the demand of the Unit Owner in the manner provided, or if a purchaser furnished by the Association shall default in the agreement to purchase, then notwithstanding the disapproval, the proposed transaction as contained in the Unit Owner's original notice of intent to sell shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided. The certificate shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

B. Lease. If the proposed transaction is a lease, the Unit Owner shall be advised in writing of the disapproval and the lease shall not be made. Pursuant to 718.116(4), Florida Statutes, delinquency in the payment of assessments at the time of application shall constitute a valid reason for disapproval, as well as failure of the lease to contain the required language or failure to pay a required security deposit.

C. Gifts and other transfers. If the notice is of a proposed gift or an attempted gift already made, other than to a family member as provided above, the Unit Owner shall be advised in writing of the disapproval and the gift shall not be made. Any attempted gift to a party who is not approved by the Association shall be void. If the Unit Owner giving notice has acquired his title by gift, or in any other manner, then within thirty (30) days after receipt from the Unit Owner of the notice and information required to be furnished, the Association shall deliver or mail by certified mail to the Unit Owner an agreement signed by a purchaser approved by the Association and obligating the purchaser to buy the Unit upon the terms hereafter stated. The Unit Owner shall be obligated to sell the Unit to the purchaser upon the following terms:

The sale price shall be the fair market value determined by agreement between the Unit Owner and purchaser within thirty (30) days from the delivery or mailing of the agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit. A judgment of specific performance of the sale upon the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

The purchase price shall be paid in cash or upon terms approved by the Unit Owner.

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

A certificate of the Association executed by its president and secretary and approving the purchaser shall be recorded in the Public Records of Volusia County, Florida, at the expense of the purchaser.

If the Association shall fail to provide a purchaser in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval the ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval as elsewhere provided. The certificate shall be recorded in the Public Records of Volusia County, Florida, at the expense of the Unit Owner.

11.4. Exceptions. the foregoing provisions of the section entitled "Maintenance of Community Interests" shall not apply to:

A transfer to or purchase by an Institutional Lender, or its designee, that acquires its title as the result of owning a mortgage upon the Unit concerned, whether the title is acquired by deed from the mortgagor, his successor or assigns, or through foreclosure proceedings, (but they shall apply to any other lender);

A transfer, sale or lease by an Institutional Lender that so acquires its title;

A transfer to a purchaser who acquires the title to a Unit at a duly advertised public sale with open bidding that is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale;

A mortgage or transfer to, or a mortgage, purchase or other acquisition by, Developer; or

Title acquired by devise or inheritance upon death of an Owner.

11.5. Unauthorized transactions. Any sale, transfer, lease or assignment of lease that is not authorized pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

12. Compliance and default. Each Unit Owner and the Association shall be governed by and shall comply with the terms of the Declaration of Condominium, Articles of Incorporation

Bylaws and Rules and Regulations of the Association duly adopted pursuant to the terms of the applicable documents, and as to all such documents and regulations as they may be amended from time to time. The Board of Directors of the Association is hereby granted the authority to appoint a committee or committees of Unit Owners for the purpose of implementing and enforcing the terms of these documents and regulations under the rules of procedure contained in the Bylaws. The Association and Unit Owners shall be entitled to the following relief in addition to the remedies provided by The Condominium Act:

12.1. Negligence. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by the negligence of the Owner, the Owner's family member, guests, employees, agents, invitees or lessees, but only to the extent that expense is not met by the proceeds of insurance carried by the Association.

12.2. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner or the Association to comply with the requirements of the Condominium Act, this Declaration, the Bylaws, or the Regulations, and those items as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorneys' fees.

12.3. 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 Bylaws or the Regulations shall not constitute a waiver of the right to do so thereafter.

12.4. Fines. Pursuant to 718.303(3), Florida Statutes, the Association may levy reasonable fines against a Unit for the failure of the Unit Owner, or its guest, occupant, licensee, or invitee, to comply with any provision of the Declaration of Condominium, the Bylaws, or Rules and Regulations. No such fine may exceed \$100.00 per violation or the highest amount permitted by statute from time to time. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed \$1,000. No fine may be levied except after giving reasonable notice and opportunity for a hearing to the Unit Owner and, if applicable, its licensee or invitee. The hearing must be held before a committee of other Unit Owners. If the committee does not agree with the fine, the fine may not be levied. The provisions hereof do not apply to unoccupied Units, and are subject to the administrative rules promulgated from time to time by the Department of Business and Professional Regulation or its appropriate successor.

12.5. Enforcement by Governmental Authorities. The St. Johns River Water Management District, The City of Ormond Beach, and any other applicable governmental entity shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration, or the Articles or Bylaws of the Association which relate to the maintenance, operation and repair of the surface water or stormwater management system.

13. Amendments. Except as elsewhere provided, this Declaration of Condominium may be amended in the following manner:

13.1. 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 considered.

13.2. Adoption. A resolution for the adoption of a proposed amendment may be proposed at any regular or special meeting of the Members of the Association called in accordance with the Bylaws at which a quorum is present. Such amendments may be

proposed by either the Board of Directors of the Association or by the members at a meeting of the Association. Members may vote to approve or disapprove the proposed amendment in person or by limited proxy.

Except as elsewhere provided, the approvals must be either by:

Not less than a majority of the entire membership of the Board of Directors and by not less than a majority of the total number of votes to which the Unit Owners present and voting shall be entitled; or

Not less than seventy-five percent (75%) of the votes of the entire membership of the Association; or

Not less than fifty percent (50%) of the entire membership of the Board of Directors in the case of amendments that are only for one or more of the following purposes:

To correct misstatements of fact, typographical or clerical errors in the Declaration and its exhibits.

To change the boundaries between Units in the manner elsewhere stated provided the amendment is signed and acknowledged by the Developer, Owner and mortgagees of the affected Units.

Until such time as the Unit Owners other than the Developer are entitled to elect a majority of the directors, Developer reserves the right to amend, modify, alter or annul any of the covenants, restrictions or conditions of this Declaration so long as the Common Elements are not reduced and no Owner's rights in the use of the Condominium Parcel is adversely affected.

No amendment may be made without consent of mortgagees if, and only if, such proposed amendment would materially affect the rights or interests of mortgagees, or would require approval of mortgagees, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation. Consent by a mortgagee may not be unreasonably withheld.

13.3. Proviso. Provided, however, that no amendment shall discriminate against any Unit Owner nor against any Unit or class or group of Units, unless the Unit Owners so affected shall consent; and no amendment shall change the configuration or size of any Condominium Unit in any material fashion, materially alter or modify the appurtenances to the Unit, or change the proportion or percentage by which the Owner of the Unit shares the common expenses and owns the common surplus unless the record Owner of the Unit and the record Owners of all mortgages on the Unit join in the execution of the amendment and unless the record Owners of two-thirds of all of the other Units approve the amendment. Neither shall an amendment make any change in Sections 8, 9, 11 and 13 entitled "Insurance," "Reconstruction and Repair after Casualty", "Maintenance of Community Interests" and "Amendments" unless the record Owners of all mortgages upon the Condominium shall join in the execution of the amendment or it shall be determined that such change does not constitute a change that would materially affect the rights of mortgagees. Consent by a mortgagee may not be unreasonably withheld.

13.4. Execution and Recording. An amendment adopted in any manner shall be evidenced by attaching a copy of the amendment to a certificate certifying that the

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amendment was duly adopted, which certificate shall be executed by the officers 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 Volusia County, Florida.

14. Termination. The Condominium may be terminated in the following ways in addition to the manner provided by The Condominium Act:

14.1. Destruction. If it is determined in the manner elsewhere provided that the building shall not be reconstructed because of major damage, the Condominium plan of ownership thereby will be terminated without agreement.

14.2. Agreement. The Condominium may be terminated by approval in writing of all record Owners of Units and all record Owners of mortgages on Units.

14.3. 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.

14.4. Shares of Owners after termination. After termination of the Condominium, Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienor shall have mortgages and liens upon the respective undivided shares of the Unit Owners. The undivided shares of the Unit Owners shall be the same as the undivided shares of the Common Elements appurtenant to the Owners' Units prior to the termination.

14.5. Amendment. This section concerning termination cannot be amended without consent of four-fifths (4/5) of the total voting interests.

15. Turnover of Association control to Unit Owners other than Developer. At such time as the Unit Owners other than Developer elect a majority of the Directors of the Association as provided in **Article IV, Section 2, E** of the Bylaws of the Association, the Developer shall deliver to the Association all contributions to the Condominium Association's working capital as provided in the Purchase Agreement and paid to the Association under the control of the Developer at the time of closing less prepaid items which shall be pro-rated as of the date of turnover. It shall be the responsibility of the Developer to see that the contribution to working capital paid by each Unit Owner at the closing of the sale by Developer is paid over to the Association. The Developer shall also deliver all other items required to be delivered by the Bylaws or Florida Statute.

16. Cable television. The Developer, during construction or after completion, as evidenced by issuance of a certificate of occupancy by the appropriate authority, or the Association, by action of its Board of Directors, is authorized to enter into agreements to provide cable television service or other television reception service, to the Owners or occupants of Units of the Condominium, upon such terms and conditions as the Developer or the Board of Directors shall approve, including but not limited to the authority of the Association to enter into a service contract for such service to all Units of the Condominium in which case the cost shall be treated as a common expense. This authority shall be liberally construed to allow the placement of cables, equipment and all necessary adjunctive mechanical, electro-mechanical, electrical and/or electronic devices upon the Condominium Property as the Developer or Board of Directors shall approve to effectuate the intentions of this paragraph. In the event service to all Units is not provided, Unit Owners shall have the right to have cable television service

extended and provided within their Units without action of the Board of Directors and such services may be brought to the Unit Owners requiring or desiring such service over the Common Elements of the Condominium and as other utility services may be extended to the Condominium Units, providing that such installation shall not be unsightly and that such installation shall not interfere with the reasonable, lawful and peaceful use of the Common Elements and the limited Common Elements by the persons entitled to use them. Nothing in this paragraph shall be construed to impose upon the Developer or any other person, either real or corporate, the obligation to provide or install television reception facilities in this Condominium, nor to prohibit such installation. Unit Owners are prohibited from installing any type of antenna or satellite reception device on the roof or any other part of the exterior of the Condominium. Notwithstanding this provision, pursuant to Florida Statute 718.1232, no resident of any Unit, whether tenant or Owner, shall be denied access to any available franchised or licensed cable television service, nor shall such resident or cable television service be required to pay anything of value in order to obtain or provide such service except those charges normally paid for like services by residents of, or providers of such services to, single-family homes within the same franchised or licensed area and except for installation charges as such charges may be agreed to between such resident and the provider of such services. Further, no restriction contained herein may violate any resident's rights pursuant to the Federal Telecommunications Act of 1996 or any rule or regulation promulgated by the Federal Communications Commission.

17. Miscellaneous.

A. Severability. The invalidity in whole or in part of any covenant or restriction, or any section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of Condominium, the Articles of Incorporation of the Association, the Bylaws and Regulations of the Association, shall not affect the validity of the remaining portions.

B. Gender and Number. Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

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

Signed, sealed and delivered
in the presence of:

Michelle A. Ellerkamp
Michelle A. Ellerkamp

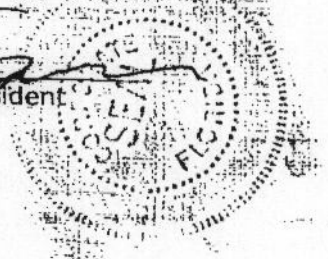
Janet C. Benton
Janet C. Benton

STATE OF FLORIDA
COUNTY OF VOLUSIA

DARPINO DEVELOPERS, INC., a Florida
Corporation

By:

PETER J. DARPINO, President



I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared **PETER J. DARPINO**, President of **Darpino Developers, Inc.**, a Florida Corporation, named as Developer in the foregoing Declaration of Condominium, and that they acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily.

WITNESS my hand and official seal in the State and County last aforesaid this 3 day of ~~February~~, 2003.

June

Michelle A. Ellerkamp
Notary Public,
Commission No.: _____
My commission expires: _____



CONSENT OF MORTGAGEE

South Trust Bank, owner and holder of a mortgage lien upon the property described in Mortgage + Security Agreement recorded in Official Records Book 4938, Page 1168, Public Records Of Volusia County, Florida, hereby consents to the submission of said real property and improvements to condominium ownership in accordance with the terms and provisions of the Declaration of Condominium for CROSS CREEK, A CONDOMINIUM.

South Trust Bank

Signed, sealed and delivered
in the presence of:

Donna M. Zarbo

Donna M. Zarbo, Vice President

Gilly Lockhart

Witness

GILLY LOCKHART

Printed Name

Karen N. Hale

Witness

KAREN N. HALE

Printed Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

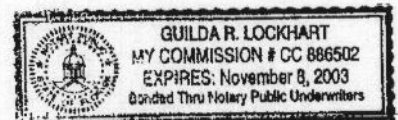
The foregoing instrument was acknowledged before me this 3rd day of June, 2003, by Donna Zarbo an authorized officer for and on behalf of South Trust Bank, who ☒ is personally known to me; or, ☐ who has produced a driver's license as identification and who did not take an oath.

Gilda R. Lockhart

Notary Public

GILDA R. LOCKHART

Printed Name



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EXHIBIT "A - A1"

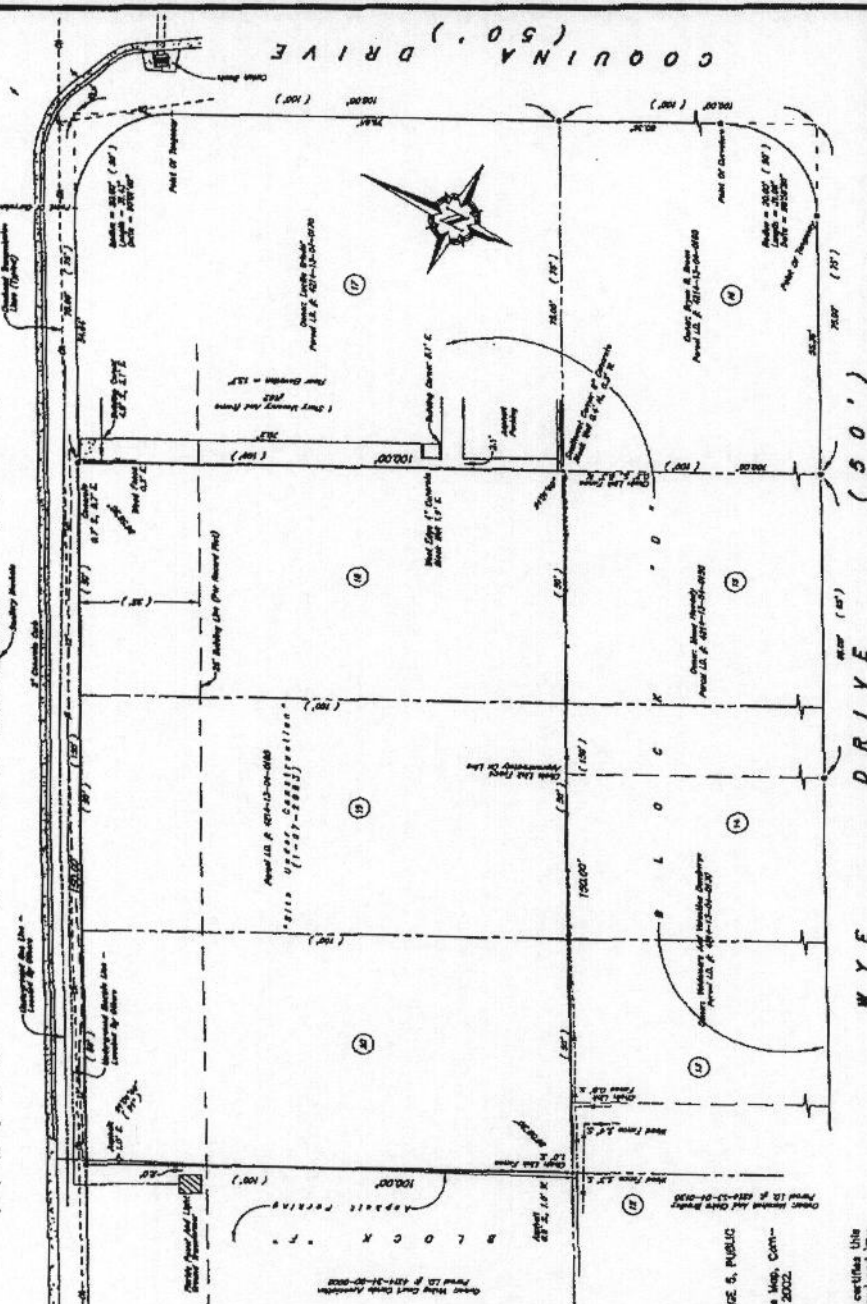
Legal Description

Lots 18, 19 and 20, Block "D", BOSARVEY ESTATES, according to plat thereof as recorded in Map Book 7, Page 5 of the Public Records of Volusia County, Florida.

EXHIBIT "A-A2"

CROSS CREEK CONDOMINIUM
ORMOND BEACH, FLORIDA

VINING COURT (50')



- LEGEND:**
- 1 1/4" iron pipe found
 - 1/2" iron pipe found
 - 1/2" iron pipe found
 - 5/8" iron rod found
 - 1 1/4" iron pipe found
 - 5/8" iron rod and cap #2230 found
 - 1" iron pipe found
 - Water Valve
 - Wood Utility Pole
 - Wood Light Pole
 - Fire Hydrant

GENERAL NOTES:

No overhead or underground facilities shown except as noted.

Record dimensions are shown in parentheses - field measurements are not.

The survey and plat will not be valid without the signature and the official raised seal of a Florida Licensed Surveyor and Mapper.

There may be additional restrictions and/or other matters not shown hereon that may be found in the public records of Volusia County, Florida.

The depicted land use is as described in the Uniform Technical Standards (UTS) - Florida Uniform Technical Standards (UTS) in "Commercial/High Rise". The minimum relative distance accuracy required by the UTS is 1:50,000. The minimum relative distance accuracy required by the UTS is 1:50,000.

Notations and/or environmental sensitive areas, if any, not determined this survey.

Boundaries are as indicated. Vertical Datum based on Department of Natural Resources Survey Data 1978 A 44. Probable elevation is 12.24'.

Parcel taxes not determined this survey.

Parcel Area = 14,997.587165 square feet; 0.344297 acres

PLAT OF BOUNDARY SURVEY OF:

LOTS 18, 19 AND 20, BLOCK D, CROSS CREEK CONDOMINIUM, OF RECORD IN MAP BOOK 7, PAGE 6, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

The property described hereon is in "unimproved zone X" per the Flood Insurance Rate Map, Community Flood Number 125135 0218 Q, map number 1212703218 Q, dated 15 April, 2002.

CERTIFICATE OF SURVEYOR

The undersigned, a Surveyor authorized to practice in the State of Florida, hereby certifies that this survey was conducted in accordance with the Florida Surveying and Mapping Act, Chapter 349, Florida Statutes, and that the survey was conducted in accordance with the Florida Surveying and Mapping Act, Chapter 349, Florida Statutes, and that the survey was conducted in accordance with the Florida Surveying and Mapping Act, Chapter 349, Florida Statutes.

Bryan E. Fries, P.S.M. #6032
Licensed Surveyor #7722

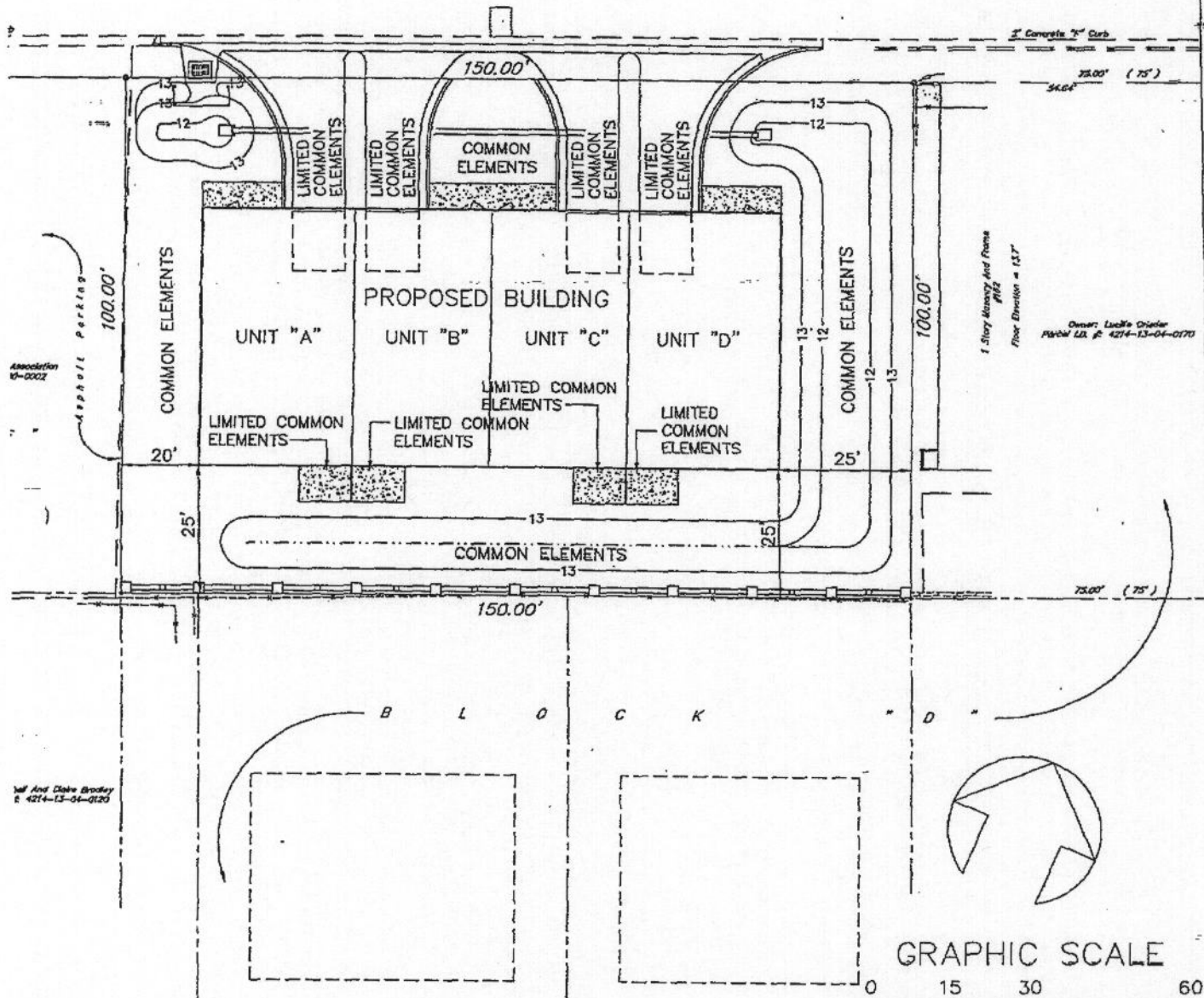
J. B. FRIES AND ASSOCIATES, INC. Professional Surveyor and Mapper 1042 West U.S. Highway 1 Ormond Beach, Florida 32174 Phone/Fax (386) 871-1700 Telex (386) 817-0517	
DATE: 12-15-2003	BY: BRYAN E. FRIES
SCALE: 1" = 50'	BY: RANDY REYNOLDS, JR.
PROJECT: CROSS CREEK CONDOMINIUM, BLOCK D, LOTS 18, 19 AND 20	BY: BRYAN E. FRIES
PREPARED FOR: DAWSON DEVELOPERS, INC. 333 ANGLISA AVENUE ORLANDO BEACH, FLORIDA	BY: RANDY REYNOLDS, JR.

EXHIBIT "A-A3"

VINING COURT

(50' R/W)

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LEGAL DESCRIPTION

LOTS 18, 19, & 20, BLOCK D, BOSARVEY ESTATES, OF RECORD IN MAP BOOK 7, PAGE 5, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

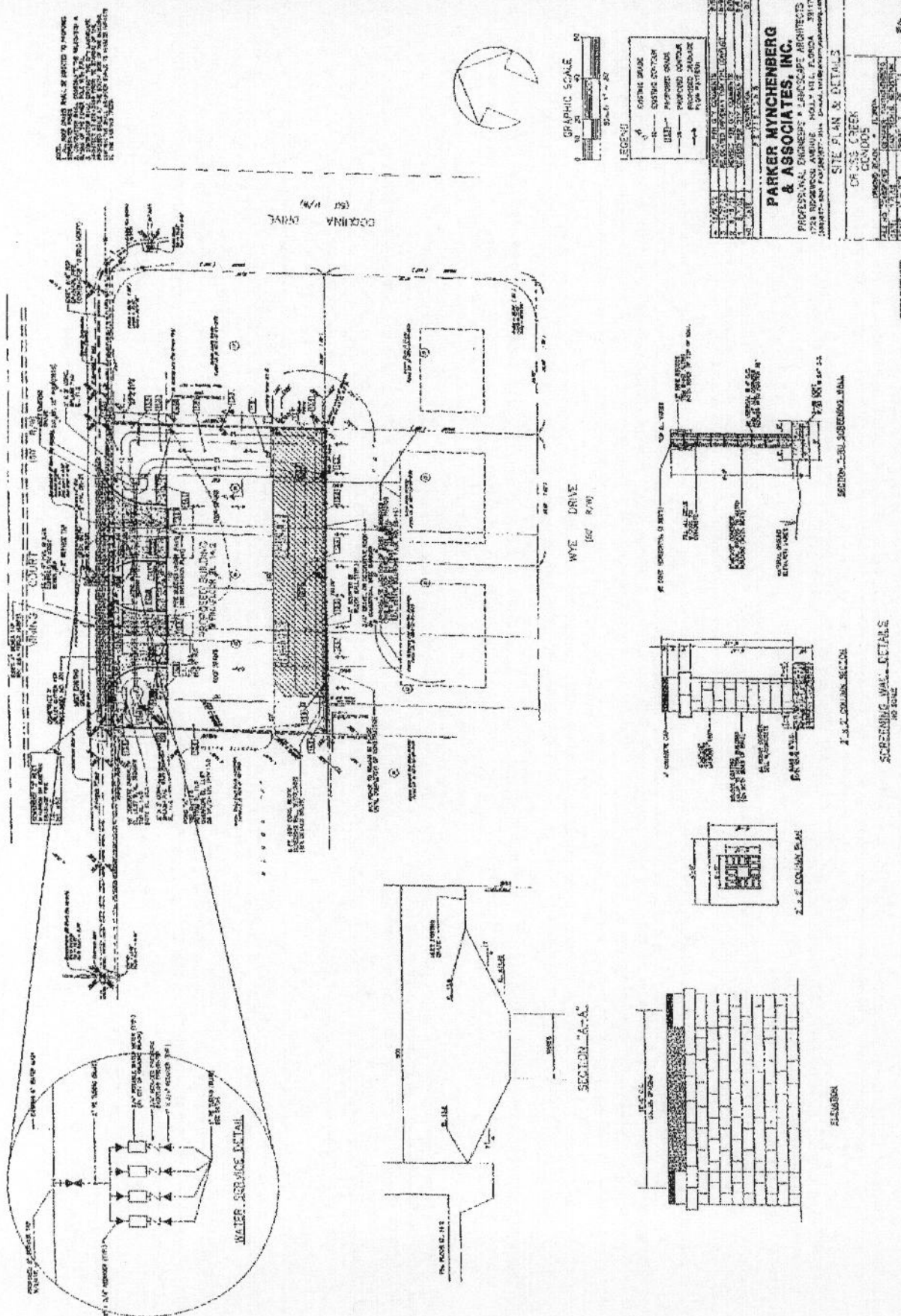
PARKER MYNCHENBERG & ASSOCIATES, INC.

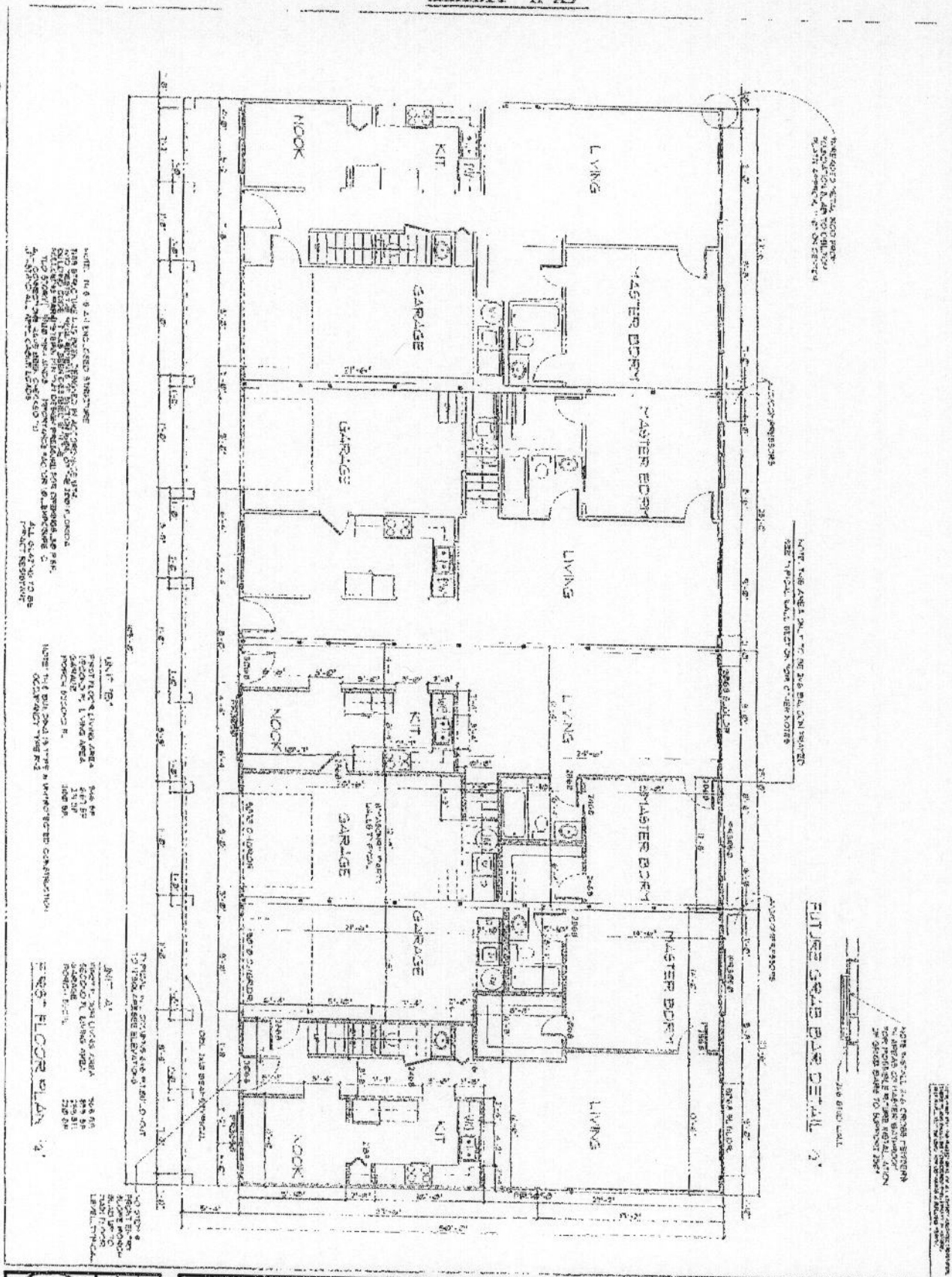
PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS

1729 RIDGEWOOD AVENUE * HOLLY HILL * FL 32117
(386) 677-6891 FAX (386) 677-2114

**PLOT PLAN FOR
CROSS CREEK, A CONDOMINIUM
ORMOND BEACH * FLORIDA**

FILE NO. 0248SPREV2.DWG	DESIGNER: P. MYNCHENBERG
DATE: 12/31/02	CADD TECH: B. BERGSTROM
SCALE: 1" = 30'	SHEET 1 OF 1





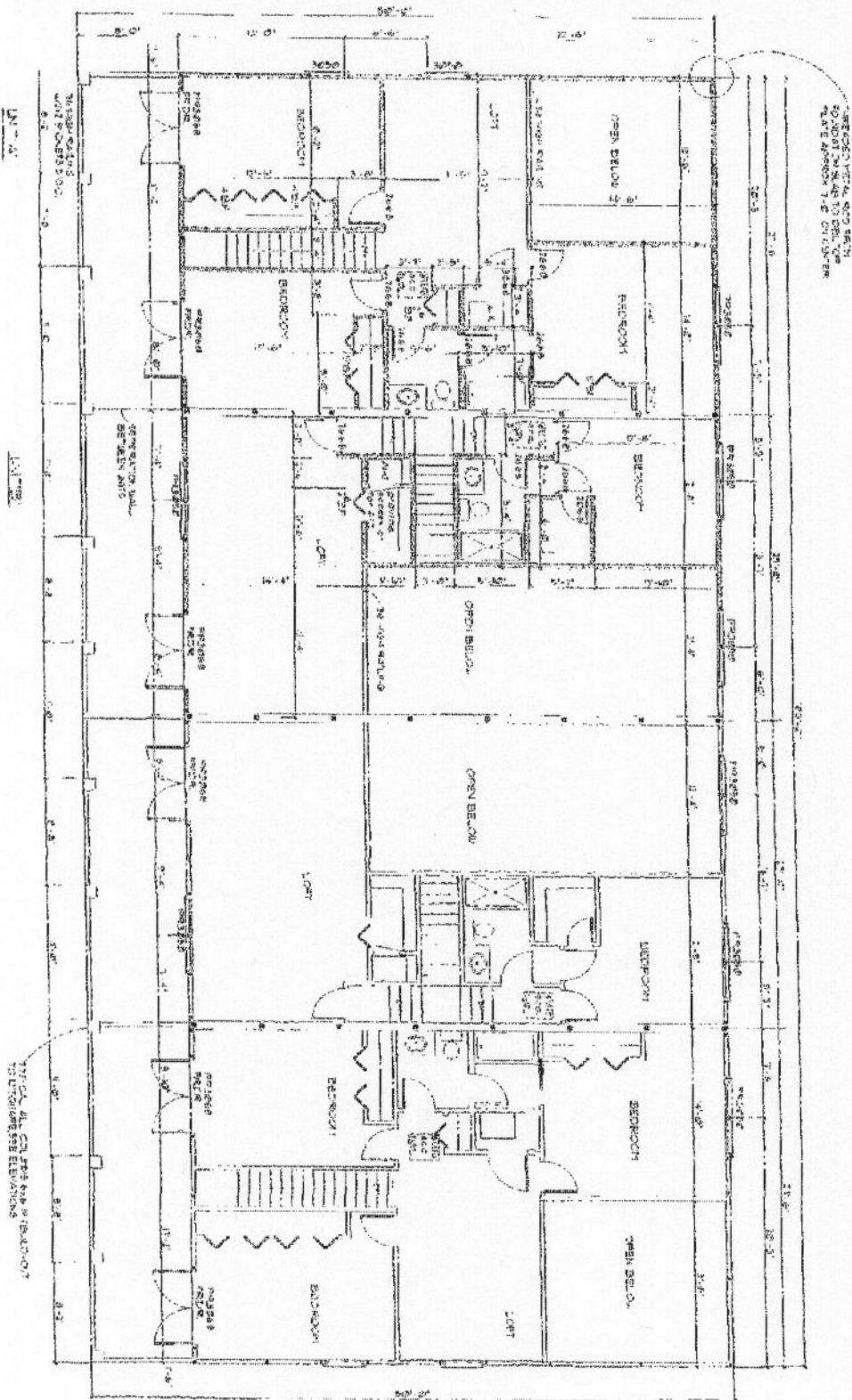
CROSS CREEK CONDO'S
by D'ARFINO DEVELOPERS

√(2000) = 44.72135955

FLORIDIAN CITIZENSHIP

Auto

1-800-368-7563
 1-800-368-7563
 1-800-368-7563



SECOND FLOOR PLAN 1/4"

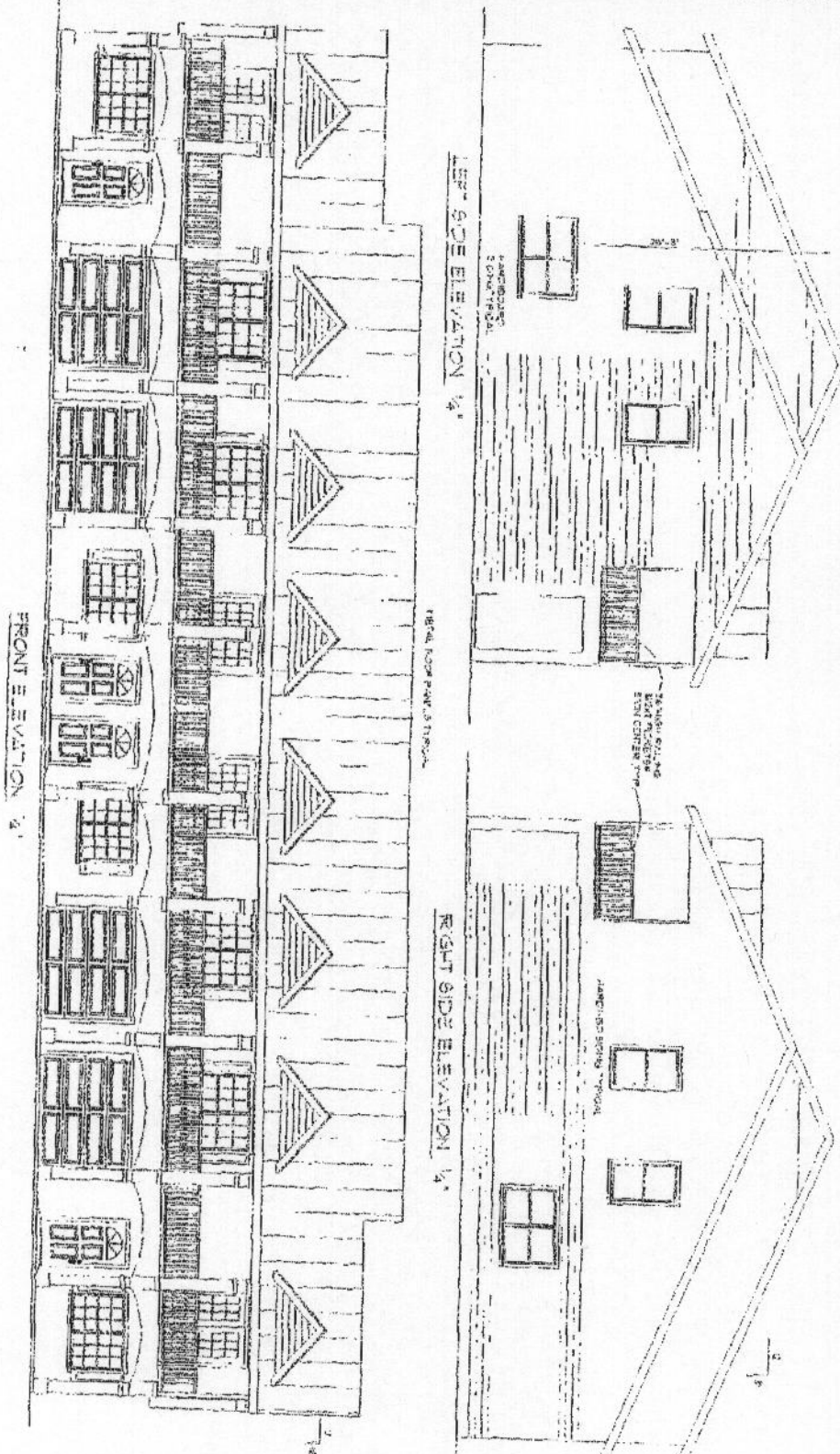
CROSS CREEK CONDO'S
By D'ARFINO DEVELOPERS

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SAATCHI & SAATCHI

தமிழ் - மலம் : 1 மணி - 75% - 1497
 1 மணி - 75% - 3600 - 166491
 2 மணி - 75% - 3600 - 75%

EXHIBIT "A-A7"



NOTE: RANGES 5000 - 5004 ALL RANGES
NOT SHOWN ON THIS PLAN. ALL RANGES
WILL BE SHOWN ON THE DEVELOPER'S SITE

1/4" = 1'-0"

CROSS CREEK CONDOS
BY DARRINO DEVELOPERS

CROSS CREEK CONDOS

STANLEY ENTERPRISES
CROSS CREEK CONDOS
Telephone: 206-366-1431
Fax: 206-366-1431
P.O. Box 100000

11

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EXHIBIT A-A8
TO
DECLARATION OF CONDOMINIUM
OF
CROSS CREEK, A CONDOMINIUM

CERTIFICATE OF SURVEYOR

CERTIFICATE OF SURVEYOR
CROSS CREEK, A CONDOMINIUM

I, BRYAN E. FRIES, a Florida Professional Surveyor and Mapper, Number P.S.M. #5602 of 1042 NORTH U.S. HWY #1, ORMOND BEACH, Volusia County, Florida, certify as follows:

1. I am a surveyor authorized to practice in the State of Florida;
2. This Certificate is made as to **CROSS CREEK, A CONDOMINIUM**, located in Volusia County, Florida, and in compliance with Section 718.104(4)(e), Florida Statutes;
3. That the construction of all planned improvements for Cross Creek, a Condominium, has been substantially completed, so that the Survey and Plot Plans related to said Condominium attached to the Declaration of Condominium as Exhibit B, together with the wording of the Declaration, are a correct representation of the Condominium Improvements described, and that there can be determined therefrom the identification, location and dimensions of the Common Elements and each Unit of the said Condominium.

By:

BRYAN E. FRIES

Professional Surveyor & Mapper No. 5602

Date: 4 JUNE 2003