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STATE OF NORTH CAROLINA : DECLARATION CREATING UNIT OWNER-
: SHIP OF PROPERTY UNDER THE
COUNTY OF NEW HANOVER : PROVISIONS OF CHAPTER 47A OF
: THE GENERAL STATUTES OF THE
: STATE OF NORTH CAROLINA

THIS DECLARATION, made this the 4th day of August, 1982, by JAMES EDWARD GUIN and wife, MARY ANN GUIN and DALE S. CAINES and wife, LINDA K. CAINES, all of New Hanover County, North Carolina, hereinafter referred to as "DECLARANTS";

KNOW ALL BY THESE PRESENTS:

THAT, WHEREAS, the Declarants are the owners of record of the fee simple title of certain real property in the County of New Hanover, State of North Carolina, which is more particularly described in Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, the Declarants are the owners of the MULTI-UNIT BUILDING and certain other improvements heretofore constructed upon the afore-said property; and

WHEREAS, it is the desire and the intention of the Declarants to market, sell and convey interests in the property and the improvements thereon as a condominium project pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, entitled "Unit Ownership Act"; and

WHEREAS, it is the desire and intention of the Declarants in the recordation of this DECLARATION in the Office of the Register of Deeds of New Hanover County, North Carolina, to submit said condominium project to the provisions of the said Chapter 47A;

NOW, THEREFORE, THE DECLARANTS DO HEREBY DECLARE THAT ALL OF THE REAL PROPERTY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO AND MADE A PART HEREBY BY REFERENCE, AS WELL AS ALL OF THE IMPROVEMENTS CONSTRUCTED THEREON, IS HELD AND SHALL BE HELD, CONVEYED, HYPOTHECATED, ENCUMBERED, USED, OCCUPIED, AND IMPROVED SUBJECT TO THE FOLLOWING ARTICLES OF COVENANTS, CONDITIONS, RESTRICTIONS, USES, LIMITATIONS AND OBLIGATIONS, ALL OF WHICH ARE DECLARED TO BE IN FURTHERANCE OF A PLAN FOR THE IMPROVEMENT OF SAID PROPERTY AND THE DIVISION THEREOF INTO CONDOMINIUM UNITS AND SHALL BE DEEMED TO RUN WITH THE LAND AND SHALL BE A BURDEN AND A BENEFIT TO THE DECLARANTS, THEIR HEIRS AND ASSIGNS, AND ANY PERSON OF ENTITY ACQUIRING OR OWNING AN INTEREST IN THE REAL PROPERTY AND IMPROVEMENTS, OR ANY SUBDIVISION THEREOF, THEIR GRANTEEES, SUCCESSORS, HEIRS, EXECUTORS, ADMINISTRATORS, DEVISEES AND ASSIGNS.

ARTICLE I

SUBMISSION OF PROPERTY

Pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, Section 47A-1, the Declarants do hereby submit all of the real property described in Exhibit "A", attached hereto and made a part hereof by reference, together with all improvements thereon and described herein, to the provisions of the "Unit Ownership Act" of the State of North Carolina, which is codified as Chapter 47A of the General Statutes of the State of North Carolina.

ARTICLE II

DEFINITIONS

For the purposes of this Declaration and the By-Laws of the Association, hereinafter defined, the following definitions for the terms used herein and therein shall apply unless otherwise defined by the context thereof:

RETURNED TO

Elton G. Tucker, Atty.

Aug 4 11 56 AM '82
RECORDED AND VERIFIED
REGGCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER CO. NC

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A. ACT shall mean and refer to the Unit Ownership Act, Chapter 47A of the General Statutes of the State of North Carolina, as such may be supplemented or amended from time to time.

B. ASSOCIATION shall mean and refer to the mandatory association of all unit owners, as is more particularly described in Article VII hereinbelow.

C. ASSESSMENT shall mean and refer to a share of the funds required for the payment of the common expenses, hereinafter defined, of the Association which from time to time shall be levied or assessed against a unit owner by the Association, all as provided for hereinbelow.

D. BUILDING shall mean and refer to the six attached single family units which the Declarants have constructed upon the real property described in Exhibit "A", to be used for residential purposes, as herein-after provided. Attached hereto and made a part hereof by reference is Exhibit "B" which consists of a full and exact copy of the plans of the building as well as a survey of the real property, drawn by Jack G. Stocks, R.L.S., showing the location of the building thereon. Said building is more particularly described in the plans of said building, showing all particulars as required by law. In general, the building has three stories built above a garage level situated on the finished grade. There are no basements. The building has a total of 1,543.5 square feet on each of said three levels, excluding stairs. The building has been subdivided into six (6) units, hereinafter defined, as well as the common areas and facilities, also hereinafter defined, of the building. The building has been principally constructed with wood, concrete and asphalt shingle roofing.

E. BOARD shall mean and refer to the Board of Directors of the Association and DIRECTOR shall mean and refer to a member of said Board.

F. BY-LAWS shall mean and refer to those By-Laws of the Association providing for the government of the Association as they are duly adopted and amended from time to time by the Association. A copy of the initial By-Laws are attached hereto as Exhibit "D" and made a part hereof by reference.

G. COMMON AREAS AND FACILITIES generally shall mean and refer to all of the real property, described on Exhibit "A", and all of the improvements and facilities thereon which are not limited common areas and facilities or units, as defined hereinafter, and which are not items of personal property owned, held, and maintained by unit owners. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to, the following:

1. All of the real property more particularly described in Exhibit "A" attached hereto, reference to which is hereby made for a more particular description thereof;
2. All foundations, columns, girders, beams, supports, roofs, ventilation fans and vents, load bearing walls, including all exterior walls and all interior walls (except nonload bearing partition walls wholly within a unit) of the building;
3. All stairways, stairwells and stairs and their components which give access to the units; and all halls or passageways, and their entrances;
4. All yard and garden areas, parking and drive areas, sidewalks, and swimming pool; including pool deck;
5. All installations of and facilities, apparatus, conduits, and equipment for the provision of all utility services, including, but not limited to, all water and sewer service, electricity, heating, air conditioning, telephone irrigation, trash disposal, if any, and cable TV, if any.

supplied for the common use and convenience of the unit owners, and which are not defined as part of the units, hereinbelow; and

6. All other portions of the real property and the improvements thereon which are not specifically part of the units themselves, as hereinafter defined, or owned by unit owners as personal property, shall be common areas and facilities intended for the common and necessary or convenient use and enjoyment, existence, maintenance or safety of the condominium project.

H. COMMON EXPENSES shall mean and refer to the total cost and expense incurred by the Association (as hereinafter provided) for the administration, maintenance, operation, enjoyment, safety, repair, and replacement (including a capital reserve for repair, maintenance, and replacement) of the common areas and facilities as well as any other expense incurred by the Association pursuant to the fulfillment of its obligations and purposes as stated herein and labeled as common expenses. Common expenses is additionally intended to mean and refer to any expense incurred by the Association as shall be hereinafter agreed upon by the Association of unit owners as common expenses of the Association.

I. COMMON SURPLUS shall mean and refer to the balance of all revenues of the Association remaining after the deduction of the common expenses.

J. CONDOMINIUM shall mean and refer to the entire proposed development consisting of all of the real property and the building, all improvements and structures thereon and all easement rights and appurtenances belonging thereto, and all articles of personal property intended for common use in connection therewith, which are intended to be submitted to the provisions of the act by this Declaration, and the supplements and amendments thereto, as are provided for hereinbelow.

K. DECLARANTS shall mean and refer to JAMES EDWARD GUIN and wife, MARY ANN GUIN and DALE S. CAINES and wife, LINDA K. CAINES, their heirs and assigns.

L. MAJORITY or MAJORITY OF UNIT OWNERS shall mean and refer to the owners of fifty-one (51%) percent of the aggregate interest in the common areas and facilities, as established by this Declaration hereinbelow, assembled at a duly called meeting of the unit owners.

M. DECLARATION shall mean and refer to this instrument as it may from time to time be lawfully amended or supplemented.

N. PERSON shall mean and refer to individual, corporation, partnership, association, trustee, or other legal entity.

O. REAL PROPERTY shall mean and refer to all of the real property described in Exhibit "A" attached hereto and made a part hereof.

P. SINGULAR, PLURAL GENDER whenever the context so permits the use of the plural shall include the singular, the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

Q. UNIT OR CONDOMINIUM UNIT shall mean and refer to any one of the six (6) subdivisions of enclosed space within the building, together with any additional areas or spaces accompanying the same as herein defined below and which are intended to or will be sold as dwelling units pursuant to the Act and this Declaration. The deed for any particular unit shall convey such unit by its unit designation and the same shall be deemed to include all that is defined as part of that unit as stated specifically in this definition, as well as the privileges and appurtenances accompanying any such unit and subject to the covenants, conditions, restrictions, and obligations applicable to unit owners as all are more generally stated and described through this Declaration.

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The six (6) units of the building are and will be identified by their unit designations which are A-1 thru A-3, and B-1 thru B-3, inclusive. These units and their designations are shown upon the plans of the building attached hereto in Exhibit "B" which also shows graphically all particulars of the building layout, location and its six (6) units, including, but not limited to, the layout, location, ceiling and floor elevations, dimensions of the units, and the area and location of common areas and facilities and limited common areas and facilities. Reference is hereby made to said building plans for the purposes of identifying and locating each unit within the building, as well as identifying its dimensions, approximate areas, and number of rooms. No unit bears the same designation as any other. Any conflict between said plans and this definition shall be resolved by reference to said plans, which shall control.

All units, as well as the additional areas defined as part of each unit hereinbelow, are bounded both as to horizontal and vertical boundaries by the interior finished surfaces of the unit's perimeter walls, ceiling, and floors, of the interior surface of the perimeter walls, ceilings, and floors of the additional areas conveyed as part of each unit as defined hereinbelow, all of which are shown on said plans, subject to easement reserved hereinbelow for such encroachments as are contained in the building whether the same exists or may be caused or created by existing construction, settlement or movement of the building, or by permissible repairs, construction or alteration.

All units shall be substantially the same design, construction, and material. Each of the six (6) units is wholly contained within one of three levels or stories of the building; there being two (2) units upon or within each of the three levels or stories of the building above the garage level situated on finished grade.

Each unit shall have one bedroom, one bathroom, a combined living/dining/kitchen area, a clothes storage closet, a closet housing the unit's indoor section of the heating and air conditioning equipment and water heater.

Located within the garage level, as shown by the ground floor plan on sheet two of Exhibit "B", are two garages intended for passenger automobile storage. They are bounded both horizontally and vertically by the finished interior surface of their perimeter walls, ceilings, floors, and closed garage doors. They are designated upon the ground floor plan as garage A-1 and garage B-1. Each garage shall have 473.8 net square feet. Garage A-1 is hereby defined as part of unit A-1, and garage B-1 is hereby defined as part of unit B-1. Units A-2, A-3, B-2, and B-3 shall not have garages.

The kitchen of each unit shall be furnished by the Declarants with prefinished wood cabinets with laminated plastic tops, electric range, range hood, double sink, electric dishwasher, electric garbage disposal, and refrigerator.

The bathroom of each unit shall be furnished by the Declarants with a fiberglass tub/shower with shower head, porcelain water closet, and vitreous china lavatory in laminated plastic vanity top.

All floor areas of each unit, except deck floors, garage floors, kitchen and bathroom floors shall be carpeted; and the kitchens and bathrooms shall have vinyl floors.

Each unit shall be equipped by the Declarants with and is defined to include its own electrical meter and a split system heat pump. The air handling equipment for said heat pump shall be housed within the unit within a closet, which shall also contain the unit's water heater.

Each unit is hereby defined to include:

1. All non-load bearing partition walls located entirely within the unit.

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2. All materials, including, but not limited to, carpet, paint, and vinyl attached to or on the interior finished surfaces of the walls, floors, and ceilings of the unit, and all window panes, frames, and exterior doors, including garage doors.
3. All air handling and condensing units, ducts, components, and all water, telephone, television, cable television, electrical, water and sewage lines, located within the unit; provided, however, that the portion of said lines located within a common compartment for, or installation of, such lines shall be common areas and facilities as defined hereinabove.

Each unit is hereby defined to exclude all pipes, ducts, wires, conduits and other facilities for the furnishing of utility services and other services up to and including the point of entry of such pipes, ducts, wires, conduits and other facilities through the interior finished surface material for walls, floors and ceilings of the units. All such pipes, ducts, wires, conduits, and other facilities are defined as part of the unit at and from their point of entry into the unit.

The definition stated hereinabove for "Unit" is complete and all other aspects of the condominium not hereinabove defined as a part of the units is defined hereby as part of the common areas and facilities or of the limited common areas and facilities of the condominium.

R. LIMITED COMMON AREAS AND FACILITIES shall mean and refer to common areas and facilities which are agreed upon by all of the unit owners to be reserved for the use of a certain unit to the exclusion of the other units. As shown by the plans in Exhibit "B", the balcony adjoining each unit on the Eastern, or ocean front side, of the building is hereby designated as a limited common area which is reserved for the use of the unit which it adjoins to the exclusion of the other units.

S. UNIT DESIGNATION shall mean and refer to the letter and number combination which designates a unit within the condominium as the same is shown upon the plans of the building in Exhibit "B" attached hereto.

T. UNIT OWNER shall mean and refer to a person, corporation, partnership, association, trust, other legal entity, or any combination thereof, in whose name or names the title to or an interest in the title to any unit is vested, excluding those who own or hold such title or interest under the terms of any mortgage or deed of trust or other similar instrument for the purposes of securing the payment of an indebtedness or the performance of an obligation.

U. UNIT ESTATE shall mean all the components of ownership in the condominium project including the defined space (unit), in the building, an undivided interest in the common areas, and the right to use the limited common areas and any other easements.

V. CONDOMINIUM PROJECT shall mean a real estate project with a multi-unit structure having more than one unit owner with common areas and facilities, which real estate project is subjected to the Unit Ownership Act as set forth in Chapter 47A of the North Carolina General Statutes.

ARTICLE III

PLAN OF DEVELOPMENT AND SCOPE OF DECLARATION

The name by which this condominium project shall henceforth be known is SURF'S EDGE VILLAS. The Declarants have caused to be constructed upon the real property described in Exhibit "A" the multi-unit building, containing the six (6) units of the building as well as the common areas and facilities of both the building and the real property, all as defined hereinabove, as shown upon the plans contained

in Exhibit "B" attached hereto, and as shown upon the actual detailed drawings and plans of the building as filed with and approved by the Town of Carolina Beach. The units of the building, together with their privileges and appurtenances, shall be offered for sale to the public by the Declarants as condominium units pursuant to the provisions of Chapter 47A of the General Statutes of the State of North Carolina, subject to the covenants, conditions, restrictions, and obligations stated in the Articles of this Declaration, the Articles of Incorporation of the Association, its duly adopted By-Laws and its Rules and Regulations.

The Declarants, by this Declaration, submit only the real property described on Exhibit "A" attached hereto, together with the improvements thereof, to the Act; and hereinafter this submission shall be referred to as SURF'S EDGE VILLAS.

ARTICLE IV

THE NATURE AND INCIDENTS OF UNIT OWNERSHIP

A. Each unit shall be conveyed and treated as an individual real property capable of independent use and fee simple ownership, and the owner of each unit shall also own, as an appurtenance to the ownership of each of said unit, an undivided interest in the common areas and facilities of SURF'S EDGE VILLAS. In addition, the owner of each unit shall also have reserved the use of the limited common area and facility consisting of the balcony adjoining his unit on the Eastern side of the building. The undivided interest in the common areas and facilities, including limited common areas and facilities, of SURF'S EDGE VILLAS appurtenant to each of the six (6) units shall be as follows:

Unit 1-A	16.77 percent
Unit 2-A	16.46 percent
Unit 3-A	16.46 percent
Unit 1-B	17.39 percent
Unit 2-B	16.46 percent
Unit 3-B	16.46 percent

The undivided interests were determined in accordance with the Act.

B. No unit may be divided or subdivided into a small unit or units than as shown on Exhibit "B" hereto, nor shall any unit or portion thereof be added to or incorporated into any other unit. The undivided interest in the common areas and facilities, including limited common areas and facilities, declared to be an appurtenance to each unit shall not be conveyed, devised, encumbered, or otherwise dealt with separately from said unit, and the undivided interest in common areas and facilities, including limited common areas and facilities, appurtenant to each unit shall be deemed, conveyed, devised, encumbered, or otherwise included with the unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such unit. Any conveyance, mortgage, or other instrument which purports to grant any right, interest, or lien in, to or upon a unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a unit and its appurtenant undivided interest in common areas and facilities, including limited common areas and facilities, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any unit, which describes said unit by the letter/numerical designation assigned thereto in Exhibit "B" without limitation or exception, shall be deemed and construed to affect the entire unit and its appurtenant undivided interest in the common areas and facilities, including limited common areas and facilities. Nothing herein contained shall be construed as limiting or preventing ownership of any unit and its appurtenant undivided interest in the common areas and facilities, including limited common areas and facilities, by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

C. The common areas and facilities, excluding the limited common areas and facilities consisting of the balconies, shall be, and the same are hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the owners of units in SURF'S EDGE VILLAS for their use of their immediate families, guests or invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said owners of units. Notwithstanding anything above provided in this Article, the Association shall have the exclusive right to establish the rules and regulations pursuant to which the owner of any unit, his family, guests and invitees, may be entitled to use the common areas and facilities, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof, and to establish rules and regulations concerning use of any recreation area presently existing or built in the future.

D. Recognizing that the proper use of a unit by an owner or owners is dependent upon the use and enjoyment of the common areas and facilities in common with the owners of all other units, and that it is in the interest of all owners that the ownership of the common areas and facilities be retained in common by the owners, it is hereby declared that the proportional undivided interest in the common areas and facilities appurtenant to each unit shall remain undivided and no unit owner shall bring or have any right to bring any action for partition or division.

ARTICLE V

USE RESTRICTIONS

A. The units herein are specifically restricted to single family residential use by the owner thereof, his immediate family, guests, invitees, and lessees.

B. No immoral, improper, offensive or unlawful use shall be made of any unit or of the common areas and facilities, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the unit shall be observed. No owner of any unit shall permit or suffer anything to be done or kept in his unit, or on the common areas and facilities, which will increase the rate of insurance on the unit, or which will obstruct or interfere with the rights of other occupants of the other units or annoy them by unreasonable noises, nor shall any owner undertake any use or practice which shall create and constitute a nuisance to any other owner of a unit, or which interferes with the peaceful possession and proper use of any other unit or the common areas and facilities.

C. The use of common areas and facilities, by the owner or owners of all units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established, by the Association.

D. No owner of a unit shall permit any structural modification or alteration to be made to such unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in their sole discretion, that such structural modifications or alterations would adversely affect or in any manner endanger the condominium in part or in its entirety. No owner shall cause any improvements or changes to be made on the exterior of the condominium (including painting or other decoration, or the installation of electrical wiring, television or radio antennae or any other objects, machines or air conditioning units which may protrude through the walls or roof of the condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No unit owner shall cause any object to be fixed to the common areas and facilities (including the location or construction of fences and the planting or growing of flowers, trees, shrubs, or

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any other vegetation) or in any manner change the appearance of the common areas and facilities or limited common areas and facilities without the written consent of the Association being first had and obtained.

E. So long as the Declarants shall retain ownership of any units, they may utilize any such unit or units for sales offices, models or other usage for the purpose of selling units within said project. The Declarants may assign this limited commercial usage right to any other person or entities as they may choose; provided, however, that when all units have been sold, this right of commercial usage by the Declarants, their heirs and assigns, shall immediately cease.

F. The use of the condominium may be further restricted under the By-Laws of the Association, or its Rules and Regulations.

ARTICLE VI

EASEMENTS

In addition to easements and rights established and/or reserved elsewhere in this Declaration, the following easements and rights are hereby established as covenants and burdens running with the real property and the improvements thereon:

A. In case of any emergency originating in or threatening any unit, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

B. Each unit owner shall have an easement in common with the other owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors of the Association or their designee shall have the right of access to each unit to inspect the same and to remove violations therefrom and to maintain, repair, or replace the common facilities contained therein or elsewhere in the building.

C. The initial and subsequent Boards may grant or assume easements, leases, or licenses for utility purposes for the benefit of the condominium, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits and wires over, under, along and on any portion of the units and/or common areas and facilities and limited common areas and facilities; and, each unit owner hereby grants to the Board, or its designee, the irrevocable power of attorney to execute, acknowledge, and record for or in the name of the Association or each unit owner such instruments as may be necessary to effectuate the foregoing.

D. Ingress and egress is reserved for pedestrian traffic over, through, and across stairs, sidewalks, paths, walks, and lanes as the same from time to time may exist upon the common areas and facilities; and for vehicular traffic over, through and across such portions of the common areas and facilities as from time to time may be paved, or covered with gravel, and intended for such purposes, for all unit owners, their guests, families, invitees, lessees, the Association, the Declarants, their heirs and assigns.

E. In the event that any unit shall encroach upon any of the common areas and facilities, or any other unit or units, for any reason not caused by the purposeful or negligent act of the unit owner, or agents of such owner, then an easement appurtenant to such unit shall exist for the continuance of such encroachment for so long as such encroachment shall naturally exist; and, in the event that any portion of the common areas and facilities

shall encroach upon any unit, then an easement shall exist for the continuance of such encroachment of the common areas and facilities upon any unit for so long as such encroachment shall naturally exist. If any unit or common areas and facilities shall be partially or totally destroyed as a result of fire and other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such unit and/or common areas and facilities in accordance with this Declaration, there exist encroachments of portions of the common areas and facilities upon any unit, or of any unit upon any other unit or upon any portion of the common areas and facilities, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

ARTICLE VII

THE ASSOCIATION

To efficiently and effectively provide for the administration and maintenance of SURF'S EDGE VILLAS, by the unit owners, nonprofit North Carolina corporation known and designated as SURF'S EDGE VILLAS HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association", has been organized, a true copy of its Articles of Incorporation having been recorded in Book 1206 at Page 847 in the Office of the Register of Deeds of New Hanover County, North Carolina, and the provisions thereof are incorporated herein by reference. The Association shall administer the operation and management of the condominium, SURF'S EDGE VILLAS, and shall undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and its duly adopted By-Laws. A true copy of the original By-Laws are attached hereto in Exhibit "C" and expressly made a part hereof by reference.

A. Declarants' Control: Until December 31, 1982, or until such time as the first unit is deeded to an owner, whichever occurs first, the initial Board of Directors of the Association as stated in its Articles of Incorporation shall exclusively be responsible for the total operation and management of the Association, exercising all powers, duties, and obligations thereof, free from interference or control by any and all unit owners; provided, however, that said Board shall manage and operate the Association in a manner consonant with the terms and conditions of this Declaration, any and all supplements or amendments hereto, the Association's Articles of Incorporation and its duly adopted By-Laws; provided, further, however, that the Declarants may by written notice to each unit owner at any time prior to the above-referenced date manifest its intention to cause the resignation of said Board of Directors at which time the initial meeting of the membership of the Association shall be called for the purpose of the election of a new Board of Directors of the Association from the membership thereof, who shall then become responsible for the operation and management of the Association.

B. Membership and Voting Rights: Membership and voting rights in the Association shall be as provided in Article VI of its Articles of Incorporation referred to and incorporated herein as stated hereinabove; membership being mandatory for all unit owners of all units of SURF'S EDGE VILLAS.

C. Powers: The Association shall have all powers granted to it as stated in Article V of said Articles of Incorporation.

D. Common Expenses: The common expenses of the Association shall be shared by the unit owners in the same proportions that the undivided interest in the common areas and facilities appurtenant to each owner's unit bears to the total of all undivided interests in the common areas and facilities appurtenant to all units, and as assessment against the unit owners and their units as provided for hereinbelow.

E. Management and Maintenance:

1. The Association, as a common expense, shall be responsible for the maintenance, repair and replacement of all of the common areas and facilities, including those portions thereof

which contribute to the support of the building or buildings, and all conduits, ducts, plumbing, wiring, and other facilities located in the common areas and facilities for the furnishing of utility and other services to the units and said common areas and facilities, and should any incidental damage be caused to any unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair, or replacement of any common areas and facilities, the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair, and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a unit owner, his immediate family, guests, or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair, or replacement, except that the unit owner who is responsible for the act causing the damage (whether done by himself or by his family, guests, or invitees) shall be required to pay such portion of the cost of such maintenance, repair, and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair, or replacement.

2. The Association shall have the right to make or cause to be made such alterations or improvements to the common areas and facilities which do not prejudice the rights of the owner of any unit in the use and enjoyment of his unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association, and the cost of such alterations or improvements shall be common expenses to be assessed and collected from all of the owners of units. However, where any alterations and improvements are exclusively or substantially for the benefit of the owner or owners of a certain unit or units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the owner or owners of the unit or units exclusively or substantially benefited, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Association.
3. The Association may enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. All the powers and duties of the Association necessary or convenient for such maintenance and management may be delegated to and vested in such as are specifically required by this Declaration, the By-Laws, or the Unit Ownership Act, to have the approval of the Board of Directors or the Association. The manager is hereby further authorized to recommend the annual budget, and, upon approval thereof by the Board of Directors, make assessments for common expenses, and collect such assessments as provided in this Declaration and the By-Laws, subject always to the supervision and right of approval of the Board of Directors.

F. Unit Owners Maintenance:

Every owner shall perform promptly all maintenance and repair work within his unit which, if omitted, would affect the condominium, either in its entirety or in a part belonging to other owners; every owner being expressly responsible for the damages and liability which his failure to do so may engender. The owner of each unit shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his unit. Such owner shall further be responsible and liable for the maintenance, repair, and replacement of the surfaces of any and all walls, ceilings, and floors which are a part of his unit, including painting, decorating, and furnishings, and all other accessories which such owner may desire to place or maintain in his unit. Whenever the maintenance, repair, and replacement of any item for which the owner of a unit is obligated to maintain, replace, or repair at his own expense is occasioned by any loss or damage which may be covered by an insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair, or replacement except that the owner of such unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair, and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair, or replacement. All glass doors, windowframes, panes and screens are a part of the respective units and shall be maintained by the respective unit owners.

All parts of a unit shall be kept in good condition and repair by and at the expense of the owner. The unit shall be maintained by the owner in a clean and safe condition, free of nuisance. Each unit owner will promptly comply with any requirements of the insurance underwriters of the insurance for the common areas and facilities when so requested in writing by the Board or its designated agent. Any failure of an owner to repair, maintain, or replace as may be required pursuant to this Declaration, or a determination by the Board or its designated agent that such failure will endanger or impair the value of the common areas and facilities or any unit may be, upon written notice of the owner of the nature of the required repair, maintenance, or replacement, repaired or replaced by the Association at the expense of the unit owner, to be collected by special assessment as provided herein and in the By-Laws. Such assessment may include the cost to the Association incurred in the abatement of any nuisance maintained by the unit owner therein.

G. Limitation of Liability:

Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

H. Insurance:

1. Acquisition: Insurance policies upon the condominium (other than title insurance) shall be purchased by the Association in the name of the Board of Directors of the Association, as Trustee for the unit owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against unit owners, the Association and their respective servants, agents, and guests. Each unit owner may obtain insurance, at his own expense, affording coverage upon his unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.
2. Coverage: All buildings and improvements upon the land and all personal property included in the common areas and facilities shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, or by ninety percent co-insurance coverage or by such other form of policy as the Board of Directors annually determines will most reasonably provide the funds necessary to repair or reconstruct the insured improvements. Such coverage shall afford protection against (a) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and (b) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on real property, including, but not limited to, vandalism and malicious mischief.
3. Public Liability Insurance: Public liability insurance shall be secured by the Association in such amount and with such coverage as shall be deemed necessary by the Board of Directors, including, but not limited to, an endorsement to cover liability of the unit owners as a group or to a single unit owner. There shall also be obtained such other insurance coverage as the Board of Directors or manager shall determine from time to time to be desirable or necessary.

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4. Premiums: Premiums upon insurance policies purchased by the Association shall be paid by the Association and chargeable to the Association as a common expense.
5. 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 thereof shall be payable to the Association as insurance trustee under this Declaration. The Board of Directors of the Association is hereby irrevocably appointed agent for each unit owner and his mortgagee as their interests may appear for the purpose of compromising and settling claims arising under insurance policies purchased by the Board of Directors for the benefit of the Association and the unit owners; said Board of Directors or its designee is hereby further empowered to execute and deliver releases to the insurance carrier upon the payment of claims. The Board of Directors' duty or its designee's duty upon receipt of such proceeds shall be to hold the same in trust for the purposes elsewhere stated herein or in the By-Laws for the benefit of the Association and the unit owners and their mortgagees, as their interests may appear.
6. Distribution of Insurance Proceeds: Proceeds of insurance policies shall be payable to the Board of Directors of SURF'S EDGE VILLAS HOME-OWNERS ASSOCIATION, INC., as insurance trustee and shall be distributed to or for the benefit of the beneficial owners in the following manner:
 - (a) Expense of the Trust: All expenses of the insurance trustee shall be first paid or provision made therefor, if any;
 - (b) Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as determined in Paragraph H(7) hereof. Any proceeds remaining after defraying such costs shall be distributed as surpluses to the beneficial owners of the damaged units pursuant to Paragraph J hereof;
 - (c) Failure to Reconstruct or Repair: If it is determined, as provided in Paragraph H(7) hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed as surpluses to the beneficial owners of the damaged units thereof pursuant to Paragraph J hereof;
 - (d) Mortgagees: In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired.

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Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:

- (a) Common Areas and Facilities: If the damaged improvement is a common area or facility, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated;
- (b) Units:
1. Partial Destruction: If the damaged improvement is a unit, and if termination as provided in subparagraph (2) below does not take place, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated;
 2. Total Destruction: If more than two-thirds (2/3) of the units are destroyed and the owners of three-fourths (3/4) of the units in the entire condominium should determine not to proceed with repair or restoration, then the procedure set forth in Section 47A-25 of the North Carolina Statutes, and any amendments thereto, shall take place.

Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto 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 a unit, by the owners of all damaged units therein which approvals shall not be unreasonably withheld.

Responsibility: If the damage is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

Estimate of Costs: Immediately after a determination to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the costs to rebuild or repair.

Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the unit owners who own the damaged units, and against all unit owners in the case of damage to common areas and facilities, in sufficient amounts to provide funds for the

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payment of such costs. Such assessments against unit owners for damage to units shall be proportion to the cost of reconstruction and repair of their respective units. Such assessments on account of damage to common areas and facilities shall be in proportion to the unit owner's share in the common areas and facilities.

I. Association to Maintain Register of Owners and Mortgagees:

The Association shall at all times maintain a Register setting forth the names of the owners of all of the units. In the event of the sale or transfer of any unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such unit together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any unit. Further, the owner of each unit shall notify the Association of the names of the parties holding any mortgage or mortgages on any unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any unit may, if he so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any unit and, upon receipt of such notice, the Association shall register in its records all pertinent information relating thereto.

J. Assessments; Liability, Lien and Enforcement:

The Association has been given the authority to administer the operation and management of the condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the owners of all units. To properly administer the operation and management of the condominium, the Association will incur for the mutual benefit of all of the owners of units, costs and expenses which are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation, management, and capital improvement, the Association has heretofore been granted the right to make, levy and collect assessments against the unit owners and their units. In furtherance of this grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation, management of and capital improvements to the condominium, the following provisions shall be operative and binding upon all the owners of all units:

1. All assessments levied against the unit owners and their units shall be uniform and, unless specifically otherwise provided for in this Declaration, all assessments made by the Association shall be in such an amount that any assessment levied against a unit owner and his unit shall bear the same ratio the the total assessment made against all unit owners and their units as the undivided interest in common areas and facilities appurtenant to each condominium unit bears to the total undivided interest in common areas and facilities appurtenant to all units. Should the Association be the owner of a unit or units, the assessment which would otherwise be due and payable to the Association by the owner of such unit or units, reduced by the amount of income which may be derived from the leasing of such unit or units by the Association, shall be apportioned and the assessment therefor levied ratably among the owners of all units which are not owned by the Association, based upon their proportionate interests in common areas and facilities exclusive of the interests therein appurtenant to any unit or units owned by the Association.
2. Assessments provided for herein shall be payable in annual, quarterly or monthly installments, or in such other installments and at such times as may be determined

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by the Board of Directors of the Association. Such assessments shall commence for each unit on the first day of the first month following the recordation of the deed in the New Hanover County, North Carolina Registry from the Declarants to the first unit owner. Declarants shall, for a period of sixty (60) days after the recording of said deed, pay an assessment equal to 50% of the regular unit assessment for each unit not deeded, and thereafter shall pay a regular assessment for each unit so retained.

3. The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the condominium, the fiscal year shall commence with the closing of the sale of the first condominium unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management, and maintenance of the condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph 4 hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such annual budget by the Board of Directors of the Association, copies of said budget shall be delivered to each owner of a unit and the assessment for said year shall be established based upon such budget, although the delivery of a copy of said budget to each owner shall not affect the liability of any owner for such assessment. Should the Board of Directors at any time determine, in its sole discretion, 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 of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary, not to exceed a 10% increase over the previous year's assessment, without approval of the membership.
4. The Board of Directors of the Association, in establishing the annual budget for operation, management, and maintenance of the condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the common areas and facilities, which capital improvement and replacement fund (capital improvement fund) shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the common areas and facilities, as well as the replacement of personal property which may constitute a portion of the common areas and facilities held for the joint use and benefit of the owners of units. The amount to be allocated to the capital improvement fund may be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of common areas and facilities. The amount collected for the capital improvement fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to common areas and facilities. Any interest earned on monies in the capital improvement fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance.
5. All monies collected by the Association shall be treated as the separate property of the Association, and such

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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 of Incorporation and the By-Laws of the Association. As monies for any assessment are paid into the Association by any owner of a unit, the same may be co-mingled with monies paid to the Association by the other owners of units. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of common areas and facilities, 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. When the owner of a unit shall cease to be a member of the Association by reason of his divestment of ownership of such unit, by whatever means, the Association shall not be required to account to such owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such owner, as all monies which any owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the condominium.

6. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at six percent (6%) per annum until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to the Association. All monies owing to the Association shall be due and payable at the main office of the Association in the State of North Carolina.
7. The owner or owners of each unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such unit while such party or parties are owner or owners of a unit. In the event that any unit owner or owners are in default in payment of any assessment or installment thereof owed to the Association, such unit owner or owners shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.
8. No owner of a unit may exempt himself from liability for any assessment levied against him or his unit by waiver of the use of enjoyment of any of the common areas and facilities, or by abandonment of the unit or in any other way.
9. Recognizing that proper operation and management of the condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all of the owners of units, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each unit owner, the Associ-

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ation is hereby granted a lien upon each unit and its appurtenant undivided interest in common areas and facilities, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the owner of each such unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said unit, and its appurtenant undivided interest in common areas and facilities. The lien granted to the Association may be foreclosed in the manner provided by North Carolina General Statute 47A-22 and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable 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 lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens, or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the highest rate allowed by law on any such advances made for such purpose. All persons, firms, or corporations who shall acquire, by whatever means, any interest in the ownership of any unit, or who may be given or acquire a mortgage, lien, or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any unit expressly subject to such lien rights.

10. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the public records of New Hanover County, North Carolina, which claim shall state the description of the unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided 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 provided for herein shall be subordinated to the lien of any first mortgage or deed of trust and any person, firm, or corporation acquiring title to any unit and its appurtenant undivided interest in common areas and facilities by virtue of any foreclosure, deed in lieu of foreclosure or judicial sale, shall be liable and obligated only for assessments as shall accrue and become due and payable for said unit and its appurtenant undivided interest in common areas and facilities subsequent to the date of acquisition of such title, and it 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 assessments 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 part of the common expenses, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

11. Whenever any unit may be leased, sold, or mortgaged by the owner thereof, the Association, upon written request of the unit owner, 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 such unit. Such statement shall be exercised 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 said unit and such 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 purchase, or mortgage proceeds, shall be applied by the lessee, purchaser, or mortgagee first to payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase, or mortgage proceeds to the owner of any unit who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a unit, the purchaser thereof shall be jointly and severally liable with seller for all unpaid assessments against seller made prior to the time of such voluntary conveyance, without prejudice to the right of the purchaser to recover from seller the amounts paid by purchaser 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 it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association.

K. Common Surplus: Common surplus, meaning all funds and other assets of the Association (including excess of receipts of the Association, including, but not limited to assessments, rents, profits, and revenues from whatever source over amount of the common expense), shall be owned by the owners of all units in the same proportion that the undivided interest in common areas and facilities appurtenant to each owner's unit bears to the total of all undivided interest in common areas and facilities appurtenant to all units; provided, however, that said common surplus shall be held by the Association in the manner, and subject to the terms, provisions, and conditions of this Declaration, imposing certain limitations and restrictions upon the use and distribution thereof. Except for distribution of any insurance indemnity herein provided, or upon termination of the condominium, any attribution or distribution of common surplus which may be made from time to time shall be made to the then owners of units in accordance with their percentage interest in common surplus as declared herein.

ARTICLE VIIITERMINATION

The condominium shall be terminated, if at all, in the following manner:

A. The termination of the condominium may be affected only by the unanimous agreement of all unit owners expressed in an instrument to that effect duly recorded, provided that the holders of all liens affecting any of the units consent thereunto or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property as provided in Subparagraph C below. The termination shall become effective when such agreement has been recorded in the public records of New Hanover County, North Carolina.

B. If it is determined in the manner elsewhere provided that the condominium shall not be reconstructed after casualty, the condominium plan of ownership shall be terminated and this Declaration revoked. The determination not to reconstruct after casualty shall be evidenced by a certificate of the Association certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the Public Records of New Hanover County, North Carolina.

C. After termination of the condominium, the unit owners shall own the property as tenants in common in undivided shares, and the holders of mortgage and liens against the unit or units formerly owned by such unit owners shall have mortgages and liens upon the respective undivided shares of the unit owners. The undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the common areas and facilities previously owned by each unit owner. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the unit owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a common expense.

D. Following termination, the property may be partitioned and sold upon the application of any unit owner. Following a termination, if the Board of Directors determines by not less than a three-fourths (3/4) vote to accept an offer for the sale of the property, each unit owner shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and in such forms as the Board of Directors directs. In such event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

E. The members of the Board of Directors acting collectively as agent for all unit owners shall continue to have such powers as in this Article are granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.

ARTICLE IXAMENDMENT OF DECLARATION OF CONDOMINIUM

A. This Declaration may be amended only in the following manner: An amendment or amendments to this Declaration may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by members of the Association owning a majority of the units, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment or amendments. It shall be the duty of the Secretary to give to each member written or printed notice of such special meeting,

stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such special meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the member at his post office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice; and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the amendment or amendments proposed must be approved by an affirmative vote of seventy-five (75%) of the members owning units in the condominium in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of this Declaration of condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such amendment or amendments, so certified and executed with the same formalities as a deed, shall be recorded in the Public Records of New Hanover County, North Carolina, within ten (10) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording date identifying the Declaration. Thereafter, a copy of said amendment or amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to the owners of all units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

B. No alteration in the percentage of ownership in common areas and facilities appurtenant to each unit, or alteration of the basis for sharing common expenses and other apportionment of assessments which may be levied by the Association in accordance with the provisions hereof, or alteration of basis of ownership of common surplus, shall be made without the prior written consent of all of the owners of all units and all of the institutional lenders holding first mortgages or first deeds of trust on the units.

C. No alteration, amendment, or modification of the rights and privileges granted and reserved hereunder in favor of an institutional lender or institutional lenders shall be made without prior written consent of all institutional lenders holding mortgages on units in the condominium being first had and obtained.

D. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of the Declarants shall be made without the written consent of said parties being first had and obtained.

ARTICLE X

REMEDIES IN EVENT OF DEFAULT

The owner or owners of each unit shall be governed by and shall comply with the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association, as any of the same are constituted or as they may be amended or supplemented from time to time. A default by the owner of any unit shall entitle the Declarants, the Association, or the owner of other units to the following relief:

A. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Articles of Incorporation or By-Laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association or, if appropriate, by an aggrieved unit owner.

B. Each 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, agent, or lessees, 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 its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceedings arising because of alleged default by a unit owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court, but in no event shall any unit owner be entitled to such attorney's fees.

D. The failure of the Association or any unit owner to enforce any right, provision, covenant, or condition which may be granted by this Declaration or the other abovementioned documents shall not constitute a waiver of the right of the Association or of the unit owner to enforce such right, provision, covenant, or condition in the future.

E. All rights, remedies and privileges granted to the Association or the owner or owners of a unit pursuant to any terms, provisions, covenants, or conditions of this Declaration or other abovementioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be available to such party at law or in equity.

F. The failure of the Declarants to enforce any right, privilege, covenant, or condition which may be granted to them by this Declaration or other abovementioned document shall not constitute a waiver of the right of Declarants to thereafter enforce such right, provision, covenant, or condition in the future.

G. The failure of an institutional lender or institutional lenders to enforce any right, provision, privilege, covenant, or condition which may be granted to it or them by the Declaration or other abovementioned documents shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

ARTICLE XI

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

"Institutional Lender" or "Institutional Lenders" as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, or other reputable mortgage lenders. So long as any institutional lender or institutional lenders shall hold any mortgage upon any unit or units, or shall be the owner of any unit or units, such institutional lender or institutional lenders shall have the following rights:

A. To approve the company or companies with whom casualty insurance is placed.

B. To examine, at reasonable times and upon reasonable notice, the books and records of the Association and to be furnished at least one copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Association, such financial statement and report to be furnished by April 15 of each calendar year.

C. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration, or the Articles of Incorporation and By-Laws of the Association, which notice shall state the nature of the amendment being proposed.

D. To be given notice of default by any owner owning a unit encumbered by a mortgage held by the Association or institutional lenders, such notice shall be given in writing and shall be sent to the principal office of such institutional lender or institutional lenders, or to the place which it or they may designate in writing. Whenever any institutional lender or institutional lenders desire the provisions of this Article to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to its address stated herein, identifying the unit or units upon which any such institutional lender or institutional lenders hold any mortgage or mortgages, or identifying any units owned by them or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such institutional lender or institutional lenders.

ARTICLE XII

SEVERABILITY

In the event that any of the terms, provision, or covenants of this Declaration are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify, or impair in any manner whatsoever any of the other terms, provisions, or covenants hereof or the remaining portions of any term, provisions, or covenants held to be partially invalid or unenforceable.

ARTICLE XIII

LIBERAL CONSTRUCTION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

ARTICLE XIV

DECLARATION OF CONDOMINIUM BINDING ON ASSIGNS AND SUBSEQUENT OWNERS

The restrictions and burdens imposed by the Articles of this Declaration 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 areas and facilities and limited common areas and facilities; this Declaration shall be binding upon the Declarants, their heirs and assigns, and upon all parties who may subsequently become owners of units in the condominiums, and their respective heirs, devisees, legal representatives, successors and assigns. This Declaration and the exhibits attached hereto and amendments hereof shall be construed and controlled by and under the laws of the State of North Carolina.

ARTICLE XV

EMINENT DOMAIN

In the event of a taking by eminent domain (or condemnation or a conveyance in lieu of condemnation) of part or all of the common areas and facilities, the award of such taking shall be payable to the Association, which shall represent the owners named in the proceedings. Such award shall be utilized to the extent possible for the repair, restoration, replacement, or improvement of the remaining common areas and facilities, if only part are taken. If all or more than two-thirds (2/3) of all of the general common areas and facilities are taken, it shall be deemed a destruction of more than two-thirds (2/3) of all of the general common areas and facilities and the condominium shall be terminated as hereinbefore provided. Any funds not utilized (in the case of a partial taking) shall be applied in payment of common expenses otherwise assessable. In the event of a taking of

all or part of a unit, the award shall be made payable to the owner of such unit and his mortgagee, if any, as their interests may appear.

ARTICLE XVI

The following named individual is designated as the person to receive service of process for the Association:

Dale S. Caines 1311 Bar Harbor Drive
Wilmington, North Carolina

ARTICLE XVII

WARRANTIES AND REPRESENTATIONS

The Declarants specifically disclaim any intent to have made any warranty or representation in connection with the condominium, except as specifically set forth herein, and no person shall rely upon any warranty or representation not so specifically made therein. Any estimates of common expenses, taxes, or other charges are deemed accurate, but no warranty or guaranty is made or intended, nor may one be relied upon.

IN WITNESS WHEREOF, the Declarants, JAMES EDWARD GUIN and wife, MARY ANN GUIN and DALE S. CAINES and wife, LINDA K. CAINES, have caused this Declaration of Condominium to be signed and sealed, the day and year first above written.

James Edward Guin (SEAL)
JAMES EDWARD GUIN

Mary Ann Guin (SEAL)
MARY ANN GUIN

Dale S. Caines (SEAL)
DALE S. CAINES

Linda K. Caines (SEAL)
LINDA K. CAINES

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, *Carole M. Hunter*, a Notary Public in and for the aforesaid State and County, do hereby certify that JAMES EDWARD GUIN and wife, MARY ANN GUIN and DALE S. CAINES and wife, LINDA K. CAINES, personally appeared before this this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this the 4th day of August, 1982.

Carole M. Hunter
NOTARY PUBLIC

My commission expires: 11/27/83

CAROLE M. HUNTER
NOTARY PUBLIC
New Hanover County, N.C.
My Commission Expires November 27, 1983

STATE OF NORTH CAROLINA
New Hanover County
The Foregoing Certificate of _____
Carole M. Hunter
_____ a notary public
is certified to be correct.
This the 4 day of August 19 82

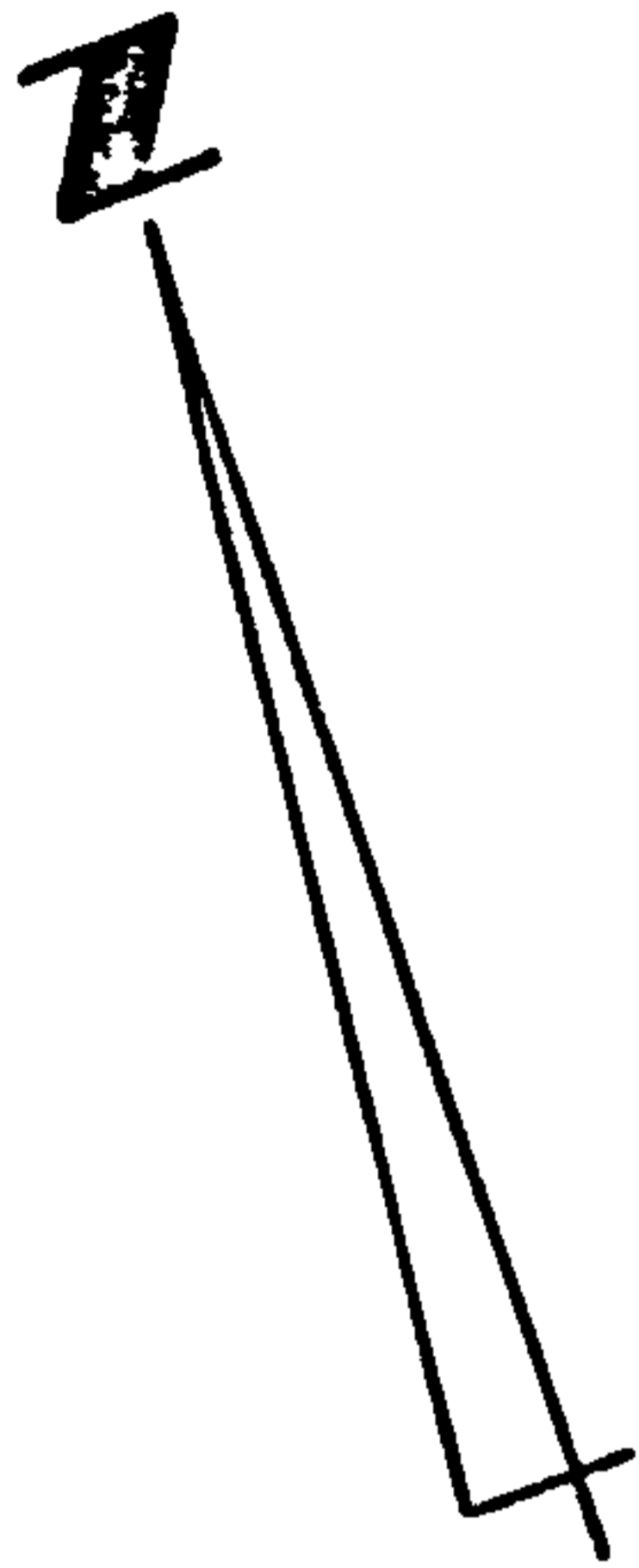
Rebecca P. Tucker, Register of Deeds
By *Rebecca P. Tucker*

EXHIBIT "A"

DESCRIPTION

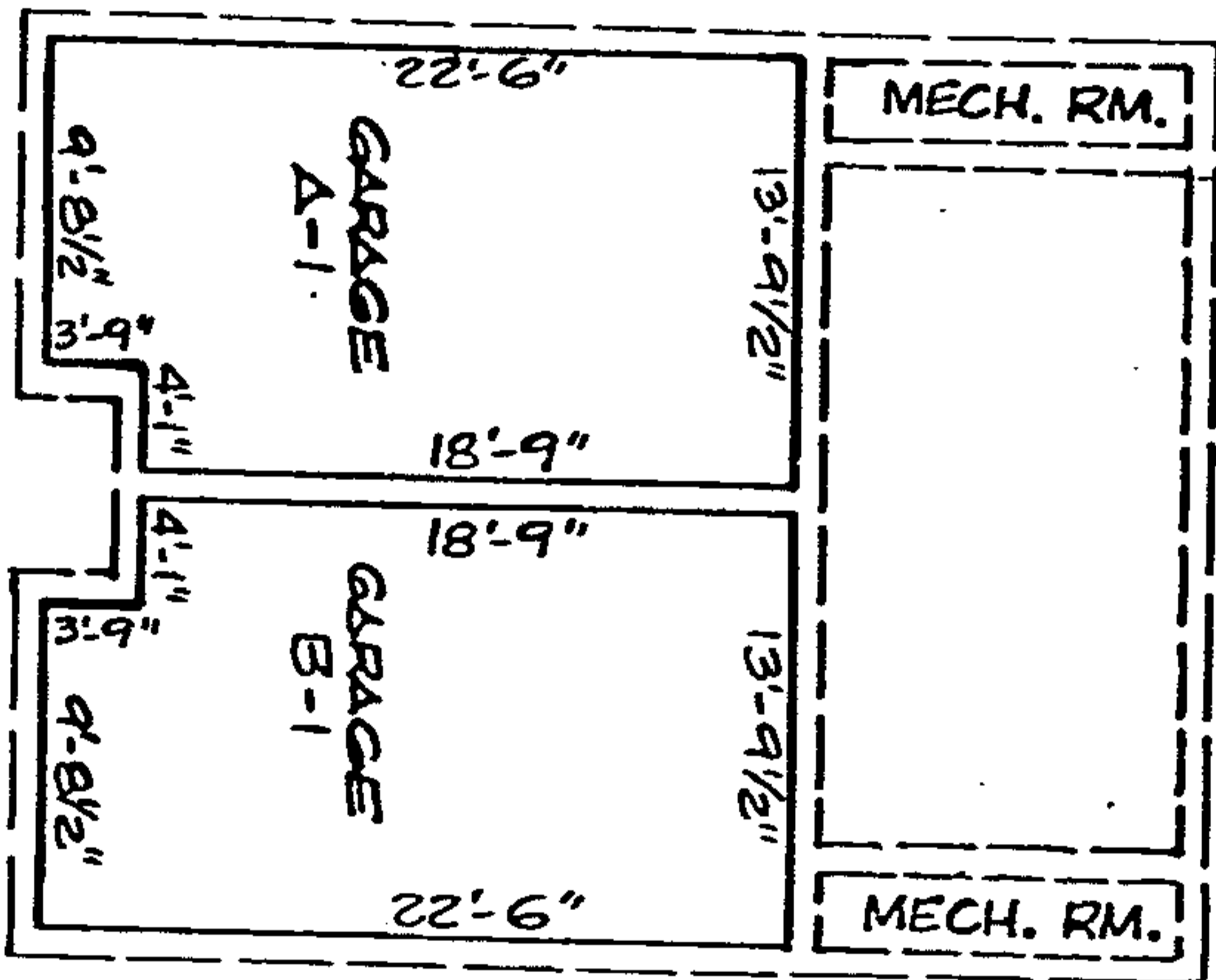
The following described real property is that upon which a condominium project known as SURF'S EDGE VILLAS is to be constructed and submitted to the provisions of Chapter 47A of the North Carolina General Statutes, entitled "Unit Ownership Act"; and being all of that certain tract or parcel of land lying and being in the Town of Carolina Beach, Federal Point Township, New Hanover County, North Carolina, and being more particularly described as follows:

ALL of Lot 4-A, Block 29, Carolina Beach as the same is shown on map recorded in Map Book 2, Pages 1 and 106, New Hanover County Registry. Subject, however, to all right, title, and interest of the State of North Carolina and Town of Carolina Beach in and to all of the aforesaid property lying Eastwardly of the Building Line of the Town of Carolina Beach as shown on map recorded in Map Book 8, Page 52, New Hanover County Registry.



GROUND FLOOR PLAN:

- INDICATES BOUNDARY LINE OF UNITS
- INDICATES COMMON AREAS & STRUCTURAL BOUNDARIES
- ||||| INDICATES LIMITED COMMON AREAS & FACILITIES
- UNIT INDICATES CONDOMINIUM
- FINISH FLOOR ELEVATION 10'-4"
- CEILING ELEVATION 18'-6 1/4"

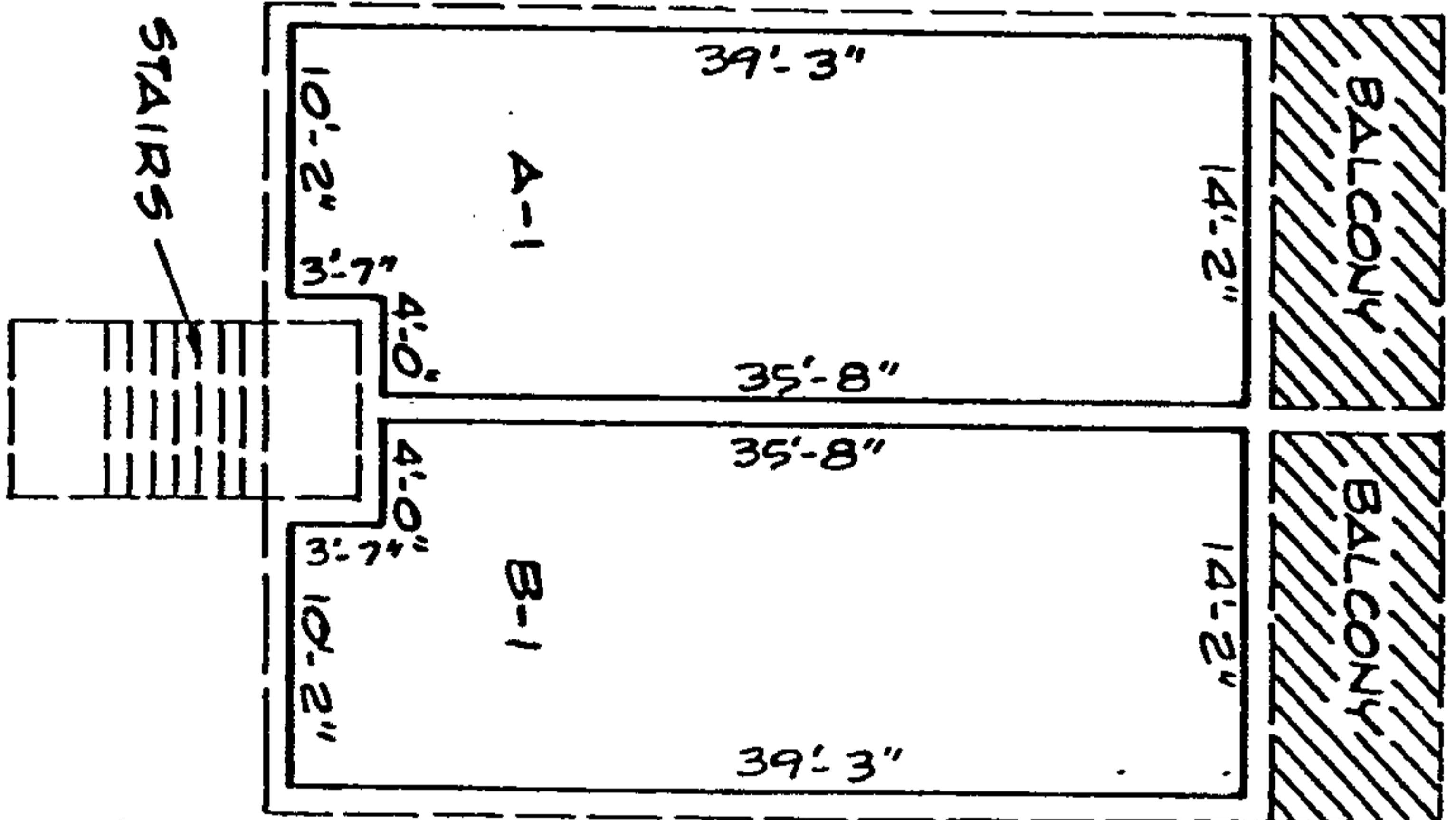
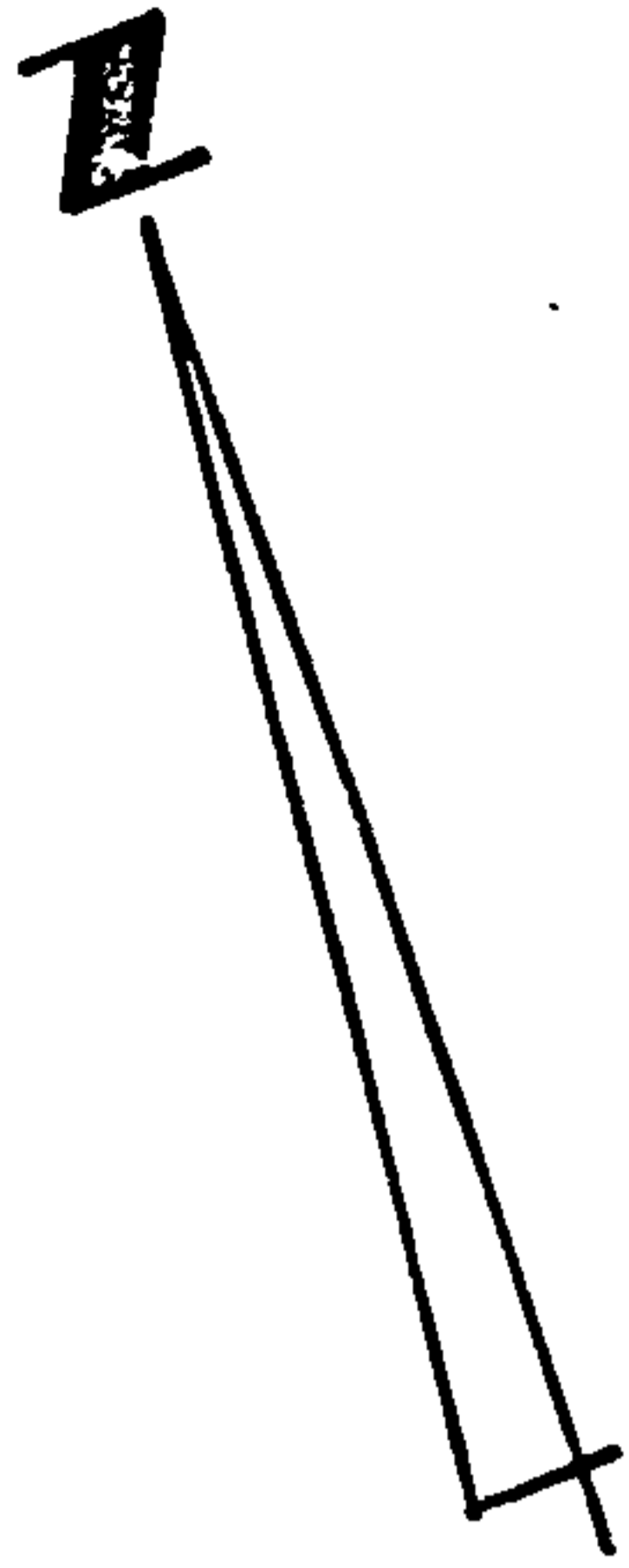


**SURF'S EDGE VILLAS
CONDOMINIUM**

CAROLINA BEACH, N.C.

LINWOOD W. ROGERS, JR., P.E.
N.C. REGISTRATION NO. 2494
WILMINGTON, N.C.

EXHIBIT "B"

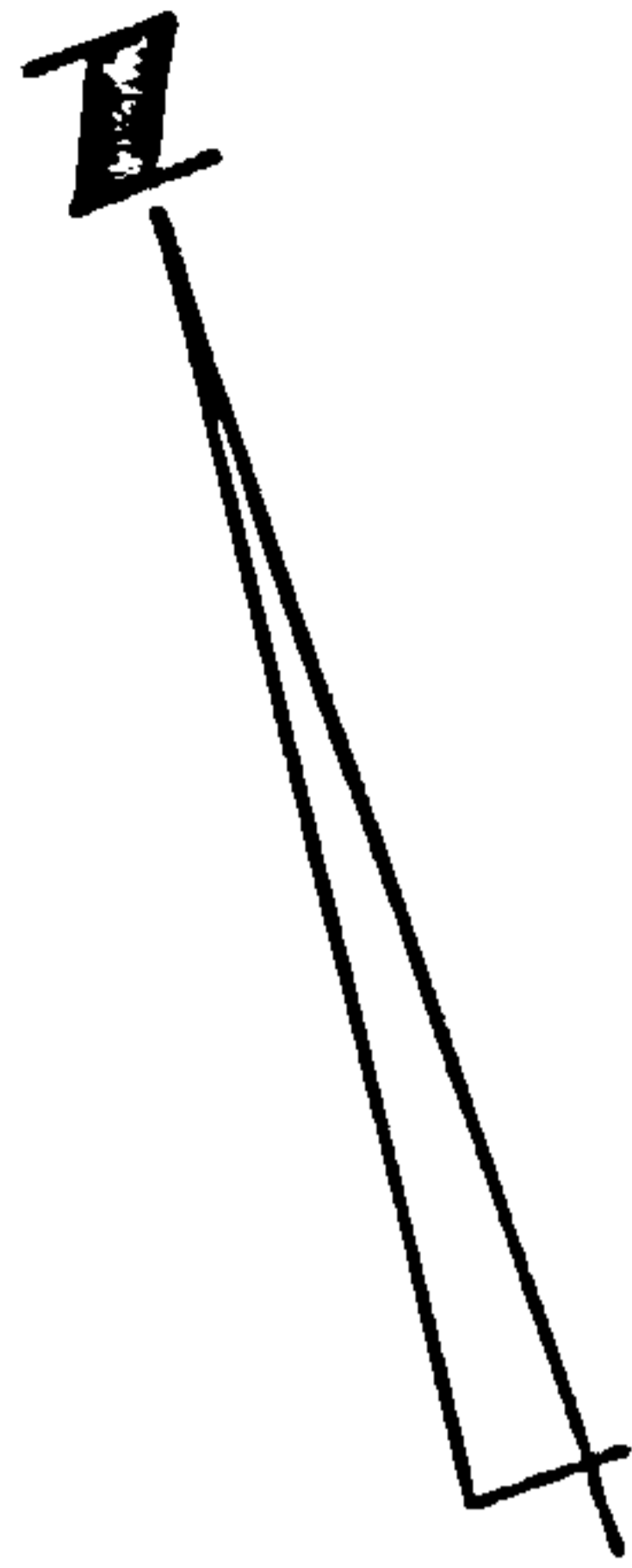


FIRST FLOOR PLAN

- INDICATES BOUNDARY LINE OF UNITS
- INDICATES COMMON AREAS & STRUCTURAL BOUNDARIES
- ////// INDICATES LIMITED COMMON AREAS & FACILITIES
- UNIT INDICATES CONDOMINIUM
- FINISH FLOOR ELEVATION 19'-5"
- CEILING ELEVATION 27'-6"

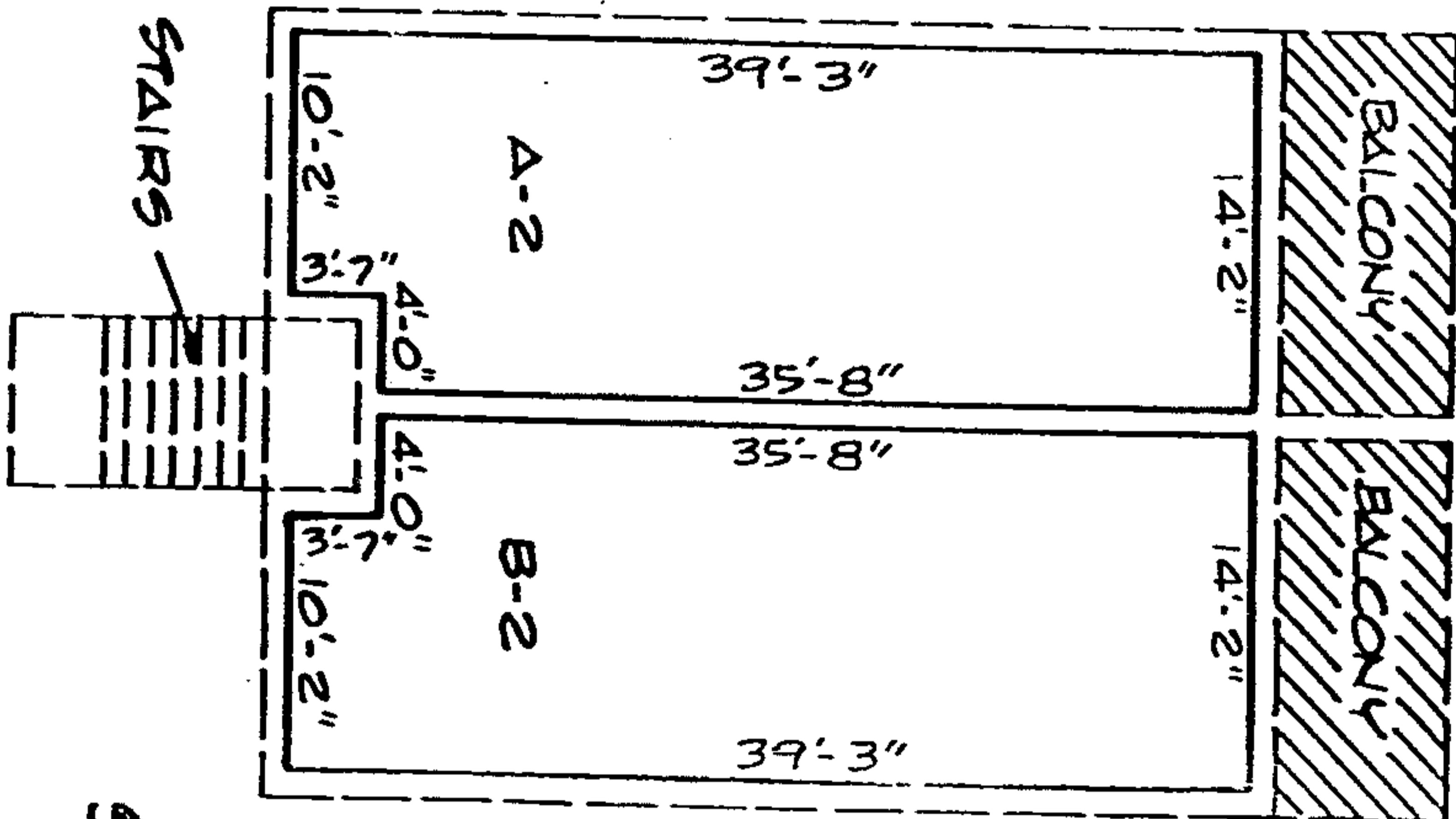
**SURE'S EDGE VILLAS
CONDOMINIUM**
CAROLINA BEACH, N.C.

LINWOOD W. ROGERS JR. P.E.
N.C. REGISTRATION NO. 7494
WILMINGTON, N.C.



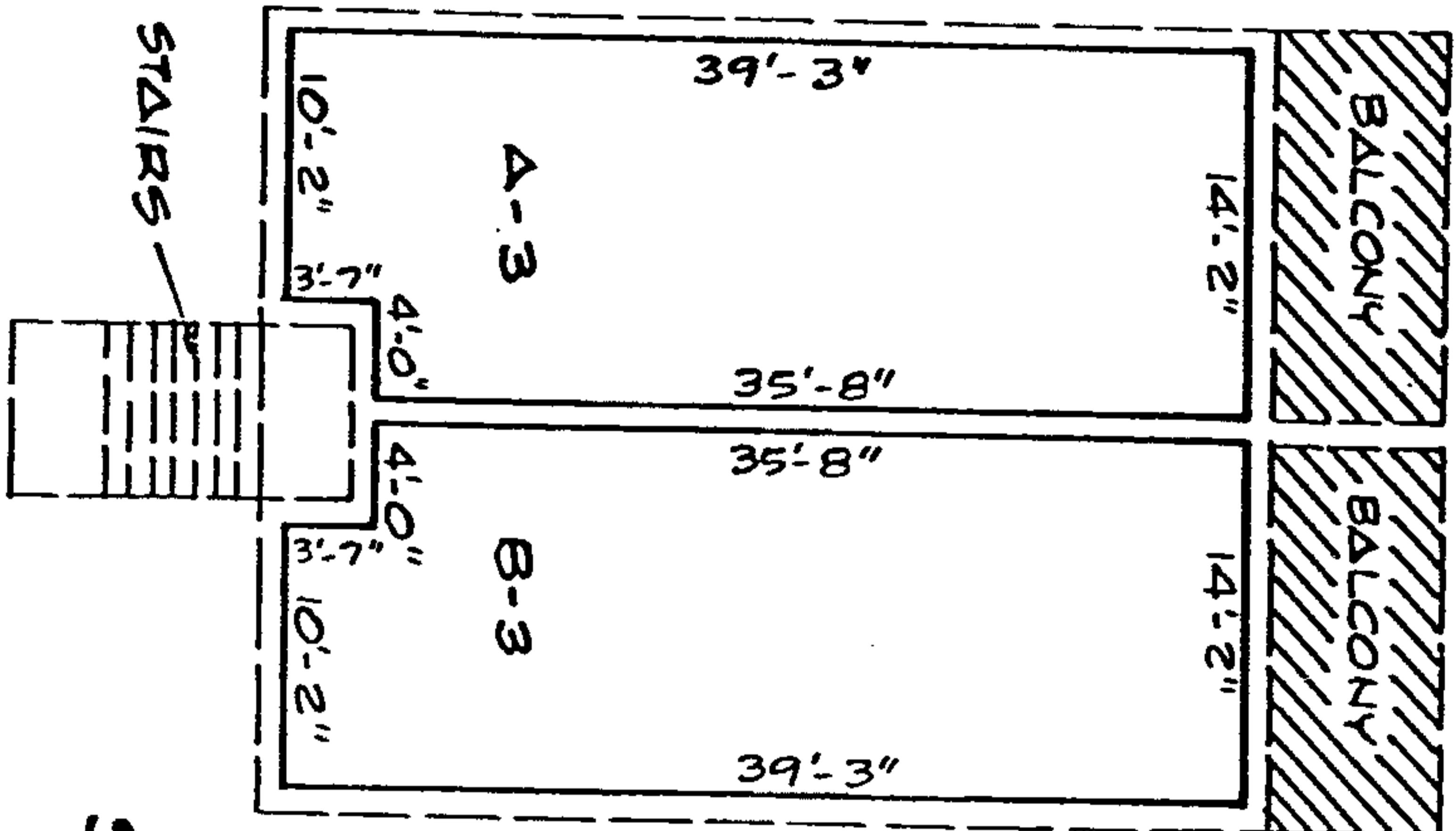
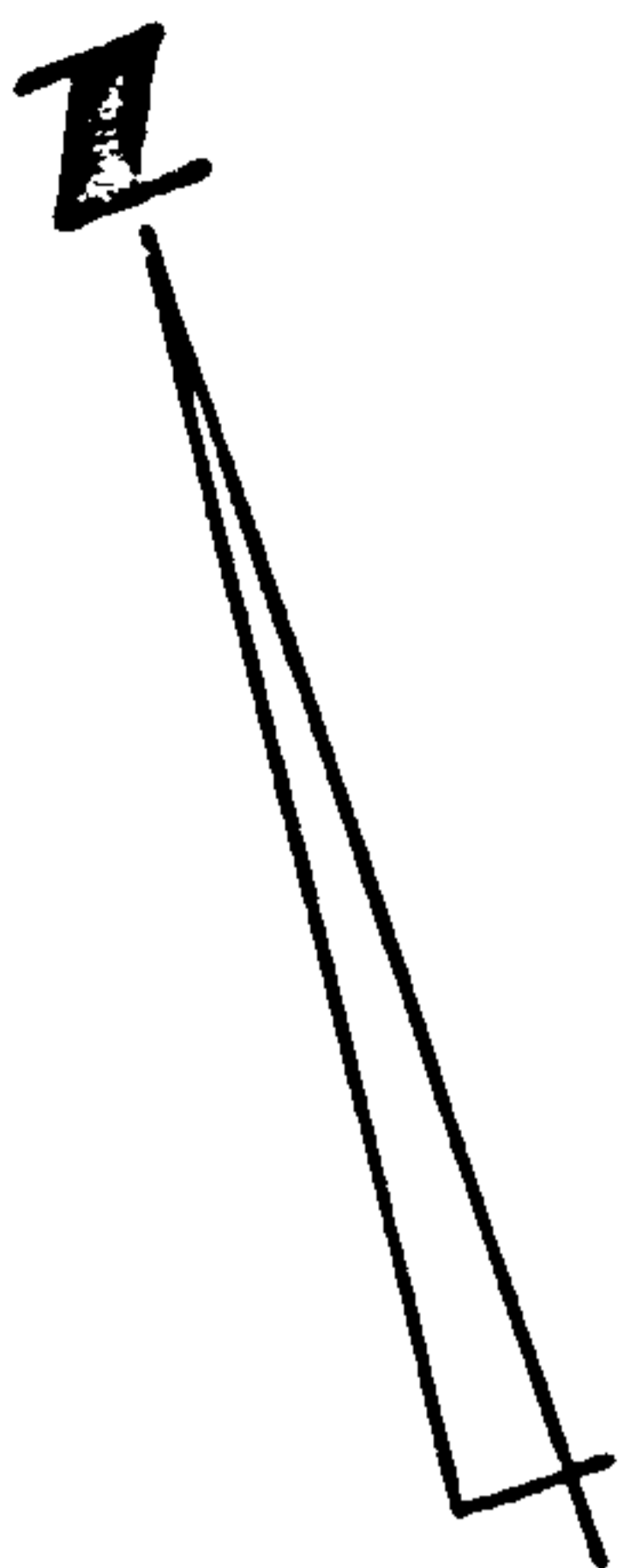
SECOND FLOOR PLAN

- INDICATES BOUNDARY LINE OF UNITS
- - - - - INDICATES COMMON AREAS & STRUCTURAL BOUNDARIES
- ////////// INDICATES LIMITED COMMON AREAS & FACILITIES
- UNIT INDICATES CONDOMINIUM
- FINISH FLOOR ELEVATION 28'-4 1/2"
- CEILING ELEVATION 36'-5 1/2"



**SURP'S EDGE VILLAS
CONDOMINIUM
CAROLINA BEACH, N.C.**

LINWOOD W. ROGERS, JR., P.E.
N.C. REGISTRATION NO. 24974
WILMINGTON, N.C.



THIRD FLOOR PLAN

- INDICATES BOUNDARY LINE OF UNITS
- INDICATES COMMON AREAS & STRUCTURAL BOUNDARIES
- ////// INDICATES LIMITED COMMON AREAS & FACILITIES
- UNIT INDICATES CONDOMINIUM
- FINISH FLOOR ELEVATION 37'-4"
- CEILING ELEVATION 45'-5"

**SURE'S EDGE VILLAS
CONDOMINIUM
CAROLINA BEACH, N.C.**

LINWOOD W. ROBERTS, JR. P.E.
N.C. REGISTRATION NO. 7444
WILMINGTON, N.C.

OF

SURF'S EDGE VILLAS HOMEOWNERS ASSOCIATION, INC.

1. **IDENTITY:** These are the By-Laws of SURF'S EDGE VILLAS HOMEOWNERS ASSOCIATION, INC., a nonprofit corporation under the laws of the State of North Carolina, the Articles of Incorporation of which were filed in the Office of the Secretary of State on May 19, 1982. SURF'S EDGE VILLAS HOMEOWNERS ASSOCIATION, INC., hereinafter called "Association", has been organized for the purpose of administering the operation and management of SURF'S EDGE VILLAS, a condominium established or to be established in accordance with the laws of the State of North Carolina upon the property situate, lying and being in New Hanover County, North Carolina, and described in Exhibit "A" attached hereto and incorporated herein by reference.

A. The provisions of these By-Laws are applicable to SURF'S EDGE VILLAS, and the terms and provisions hereof are expressly subject to the terms, provisions, conditions and authorization contained in the Articles of Incorporation and which may be contained in the formal Declaration of Condominium and/or Supplemental Declarations of Condominium which will be recorded in the Public Records of New Hanover County, North Carolina, at the time said property or properties and the improvements now or hereafter situated thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles of Incorporation and Declaration of Condominium and/or Supplemental Declarations of Condominium to be controlling wherever the same may be in conflict herewith.

B. All present or future owners, tenants, future tenants, or their employees, or any other person that might use SURF'S EDGE Condominium or any of the facilities thereof in any manner, are subject to the regulations set forth in these By-Laws and in said Articles of Incorporation and Declarations of Condominium.

C. The office of the Association shall be at 1311 Bar Harbor Drive, Wilmington, North Carolina 28403.

D. The fiscal year of the Association shall be the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium unit.

2. MEMBERSHIP, VOTING, QUORUM, PROXIES:

A. The qualification of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in Article VI of the Articles of Incorporation of the Association, the provisions of which said Article VI of the Articles of Incorporation are incorporated herein by reference.

B. A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum.

C. The vote of the owners of a Condominium unit owned by more than one person or by a corporation or other entity shall be cast by the one person named in a certificate signed by all of the owners of the Condominium unit and filed with the Secretary of the Association, and such certificate shall be valid until revoked by subsequent certificate. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

D. Votes may be cast in person or by proxy. Proxies shall be valid only for the particular meeting designated thereon and must be

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filed with the Secretary before the appointed time of the meeting.

E. Approval or disapproval of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the same person who cast the vote of such owner if in an Association meeting.

F. Except where otherwise required under the provisions of the Articles of Incorporation of the Association, these By-Laws, the Declaration of Condominium, or whether the same may otherwise be required by law, the affirmative vote of the persons entitled to cast a majority of the votes at any duly called members' meeting at which a quorum is present shall be binding upon the members.

3. ANNUAL AND SPECIAL MEETING OF MEMBERSHIP:

A. The first annual meeting shall be held within one (1) year from the date of incorporation of the Association. Until such time, the Association shall be managed and controlled by the initial Board of Directors as provided for in Article IV hereinbelow. The annual members' meeting shall thereafter be held at such hour and place designated by the Board of Directors, on the second Friday in January of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members, provided, however, that if the day is a legal holiday, the meeting shall be held at the same hour on the next succeeding Friday.

B. Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from members of the Association owning a majority of the Condominium units.

C. Notice of all members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association, or other officer of the Association in absence of said officers, to each member, unless waived in writing, such notice to be written or printed and to state the time and place and object for which the meeting is called. Such notice shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting, which notice shall be mailed or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the member at his post office address as it appears on the records of the Association (register of owners) as of the date of mailing such notice, the postage thereon prepaid. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, by signed written waiver of notice, waive such notice and, when filed in the records of the Association whether before or after the holding of the meeting, such waiver shall be deemed equivalent to the giving of notice to the member. If any members' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended (wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or the Declaration of Condominium) the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum, is present.

D. The order of business at annual members' meeting and, as far as practical, at any other members' meetings, shall be:

- a. Calling of the roll and certifying of proxies;
- b. Proof of notice of meeting or waiver of notice;
- c. Reading and disposal of any unapproved minutes;
- d. Reports of officers;
- e. Reports of committees;
- f. Appointment of inspectors of election by Chairman;

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- g. Unfinished business;
- h. New business; and
- i. Adjournment.

4. BOARD OF DIRECTORS:

A. The first Board of Directors of the Association shall consist of three (3) persons whose terms shall expire on the date of the first annual meeting of the members of the Association stated hereinabove. Each succeeding Board of Directors shall consist of five (5) persons, each of whom must be either an owner, a representative of the Developer, or an employee of a corporate owner. Notwithstanding the foregoing, until December 31, 1986, or until such time as 75% of the units have been sold and deeded to purchasers, whichever first occurs, the Developer shall have the right to designate and select the persons who shall serve as members of the Board of Directors of the Association. No director shall be required to be a resident in the Condominium.

B. Election of Directors shall be conducted in the following manner:

a. Beginning with the first annual meeting of the membership of the Association, stated hereinabove, all members of the Board of Directors shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association.

b. Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining Directors.

c. At the first annual meeting of the members of the Association, the term of office of the three (3) Directors receiving the highest plurality of votes shall be established at two (2) years, and the terms of office of the other two (2) Directors shall be established at one (1) year. Thereafter, as many Directors of the Association shall be elected at the annual meeting as there are regular terms of office of Directors expiring at such time, and the term of office of the Directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified, or until removed in the manner elsewhere provided or as may be provided by law.

d. In the election of Directors, there shall be appurtenant to each Condominium unit a total vote equal to the number of Directors to be elected multiplied by the unit's appurtenant undivided interest in the common area as set forth in the Declaration; provided, however, that no member or owner of one (1) Condominium unit may cast a vote greater than the unit's appurtenant undivided interest in the common area for any one person nominated as a Director, it being the intent hereof that voting for Directors shall be noncumulative.

e. In the event that Developer, in accordance with the rights herein established, selects any person or persons to serve on any Board of Directors of the Association, Developer shall have the absolute right at any time, in its sole discretion, to replace such person or persons with another person or persons to serve on said Board of Directors. Replacement of any person or persons designated by Developer to serve on any Board of Directors of the Association shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons to be replaced and the name or names of the person or persons designated as successor or successors to the persons so removed from said Board of Directors. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

C. The organizational meeting of each newly elected Board of Directors shall be held within ten (10) days of their election, at such time and at such place as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary provided a quorum shall be present.

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D. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least three (3) days prior to the day named for such meeting, unless notice is waived.

E. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than three (3) days' notice of a meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

F. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

G. A quorum at a Directors' meeting shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes cast at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as specifically otherwise provided in the Articles of Incorporation or these By-Laws or the Declaration of Condominium. If any Directors' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the Directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or Declaration of Condominium, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

H. The presiding officer of Directors' meetings shall be the Chairman of the Board, if such an officer has been elected; and if none, then the President of the Association shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

I. Directors' fees, if any, shall be determined by vote of the members at any annual meeting of the membership.

J. All of the powers of and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles of Incorporation of the Association, these By laws and the Declaration of Condominium. Such powers and duties shall be exercised in accordance with said Articles of Incorporation, these By-Laws and the Declaration of Condominium, and shall include, without limiting the generality of the foregoing, the following:

a. To make, levy and collect assessments against members and members' Condominium units to defray the costs of the Condominium, as provided for in Article VII of the Declaration of Condominium which Article is herein incorporated by reference, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association. Provided, however, the annual assessment may not be increased more than ten (10%) percent above the maximum assessment for the previous year without a vote of the membership.

b. To maintain, repair, replace, operate and manage the common areas and facilities wherever the same is required to be done and accomplished by the Association for the benefit of its members; and, further, to approve any expenditures made or to be made for said purposes.

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c. To reconstruct any part of the common property after casualty in accordance with Article VII of the Declaration of Condominium, and to make further improvement to the common property, real and personal, and to enter into any and all contracts, necessary or desirable to accomplish said purposes.

d. To make, amend and enforce regulations governing the use of the common property and Condominium units so long as such regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Declaration of Condominium.

e. To acquire, operate, lease, manage, and otherwise trade and deal with the property, real and personal, including Condominium units in the Condominium as may be necessary or convenient in the operation and management of the Condominium, and in accomplishing the purposes set forth in the Declaration of Condominium, provided that the acquisition of real property other than Condominium units shall require the approval of the Association.

f. To acquire now or at any time hereafter, and to enter into leases and agreements whereby the Association requires leaseholds, memberships, and other possessory or use interests in lands or facilities including, but not limited to, swimming pools, tennis and other recreational facilities whether or not contiguous to the lands of the Condominium to provide enjoyment, recreation, or other use or benefit to the owners of Condominium units.

g. To contract for the management of the Condominium and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Declaration of Condominium to have approval of the Board of Directors or membership of the Association.

h. To enforce by legal means or proceedings the provisions of the Articles of Incorporation and By-Laws of the Association, the Declaration of Condominium and the regulations hereinafter promulgated governing use of the common property in the Condominium.

i. To pay all taxes and assessments which are now or may become liens against any part of the Condominium units and the appurtenances thereto and to assess the same against the members and their respective Condominium units subject to such liens.

j. To purchase insurance for the protection of the members and the Association against casualty and liability in accordance with Article VII of the Declaration of Condominium.

k. To pay all costs of power, water, sewer and other utility services rendered to the Condominium and not billed to the owners of the separate Condominium units.

l. To designate and remove personnel necessary for the maintenance, repair, replacement and operation of the Condominium, including the common property.

K. The initial Board of Directors of the Association shall be comprised of the three (3) persons designated to act and serve as Directors in the Articles of Incorporation, which said persons shall serve until their successors are selected or elected at the first annual meeting of the members of the Association provided for hereinabove. Should any member of the initial Board of Directors be unable to serve for any reason, SURF'S EDGE VILLAS shall have the right to select and designate a party to act and serve as a Director until the first annual meeting of the members of the Association.

L. The undertakings and contracts authorized by the initial Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by any Board of Directors duly elected by the membership after the property identified herein has been submitted to the plan of condominium ownership, so long as such undertakings and contracts are within the scope of the powers and duties which may be exercised by the Board of Directors of the Association in accordance with all applicable Condominium documents.

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M. Any one or more of the members of the Board of Directors may be removed, either with or without cause, at any time by a vote of the members owning a majority of the Condominium units in the Condominium, at any special meeting called for such purpose, or at the annual meeting; provided, however, that only the Developer shall have the right to remove a Director appointed by it.

5. OFFICERS:

A. The executive officers of the Association shall be a President, who shall be a Director, a Vice President, a Treasurer, a Secretary and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by a vote of the Directors at any meeting. Any person may hold two or more offices, except that the President shall not also be Vice President, Secretary, or an Assistant Secretary. The Board of Directors shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

B. The President shall be the Chief Executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the president of any association, including, but not limited to, the power to appoint committees from among the members from time to time, as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association.

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

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

E. The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidences of indebtedness. He shall keep, or supervise the keeping of, the assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of Treasurer.

F. The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the Condominium.

G. All officers shall serve at the pleasure of the Board of Directors and any officer may be removed from office at any time, with or without cause, by a majority vote of the Board of Directors.

6. FISCAL MANAGEMENT: The provisions for fiscal management of the Association set forth in the Declaration of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

a. An assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Condominium unit. Such account shall designate the name and address of the unit owner or owners, the amount of each assessment against the owners, the dates and amounts in which assessments come due, the amounts paid upon the account and the balance due upon assessments.

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B. The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following:

1. Common expense budget, which may include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of and capital improvements to the common property including landscaping, street and walkways, office expense, utility services, casualty insurance, liability insurance, administration and reserves (operating and capital improvement replacement), management fees and costs of maintaining leaseholds; memberships, and other possessory or use interests in lands or facilities whether or not contiguous to the lands of the Condominium, to provide enjoyment, recreation or other use or benefit to the unit owners; and

2. Proposed assessments against each member and his unit.

Copies of the proposed budget and proposed assessments shall be transmitted to each member prior to January 1 of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessments, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time in their sole discretion, to levy any additional assessments in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

C. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

D. An audit of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the report shall be furnished to each member not later than April 15 of the year following the year for which the report is made.

E. Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors. The premiums on such bonds shall be paid by the Association.

7. PARLIAMENTARY RULES: Robert Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the Statutes of the State of North Carolina.

8. AMENDMENTS TO BY-LAWS: Amendments to these By-Laws shall be proposed and adopted in the following manner:

A. Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by members of the Association owning a majority of the Condominium units in SURF'S EDGE VILLAS, whether meeting as members or by instrument in writing signed by them.

B. Upon any amendment or amendments to these By-Laws being proposed by said Board of Directors or members, such proposed amendments or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a special joint meeting of the members of the Board of Directors of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) from receipt by such officer of the proposed amendment or amendments and it shall be the duty of the Secretary to give each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting

of the members if required as herein set forth.

C. In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of a majority of the entire membership of the Board of Directors and by an affirmative vote of the members owning not less than a majority (fifty-one percent) of the Condominium units in the Condominium. Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of New Hanover County, North Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the Directors or members. No amendment shall become operative or effective until it shall have been duly recorded.

D. Upon the approval and proper recording of any amendment or amendments, the same shall become binding upon all unit owners.

E. At any meeting held to consider any amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

F. Notwithstanding the foregoing provisions of this Article 8, no amendment to these By-Laws which shall abridge, amend, or alter the right of the Developer to designate and select members of each Board of Directors of the Association, as provided in Article 4 hereof, may be adopted or become effective without the prior written consent of the Developer. Provided, however, that so long as the Declarants control the Board of Directors of the Association, no additional properties, other than those contemplated by Declarants and set forth in the Declaration Creating Unit Ownership of Property and to be constructed upon the real estate described in Exhibit "B" to said Declaration, shall be annexed to the project, nor shall an amendment to these By-Laws be valid without the prior written consent of the Administrator of Veterans Affairs, and/or his successor in such office, as such, and/or his duly appointed representative.

9. COMPLIANCE: These By-Laws are set forth to comply with the requirements of the Unit Ownership Act, Chapter 47A of the General Statutes of North Carolina. In the event that any of these By-Laws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute shall apply.

The foregoing were adopted as the By-Laws of SURF'S EDGE VILLAS HOMEOWNERS ASSOCIATION, INC., a nonprofit corporation under the laws of the State of North Carolina, at the first meeting of the Board of Directors on August 4, 1982.

Dale S. Carter
Secretary