

10/17/1995

Instrument # 95156371

Book: 4045

Page: 4588

DECLARATION OF CONDOMINIUM

OF

THE ORMOND HERITAGE, A CONDOMINIUM

THIS INSTRUMENT PREPARED
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**DECLARATION OF CONDOMINIUM
OF
THE ORMOND HERITAGE, A CONDOMINIUM**

THE ORMOND ASSOCIATES, a Florida General Partnership, 2430 South Atlantic Avenue, Daytona Beach Shores, Florida 32118, being the owner of fee simple record title to that certain land located and situate in the City of Ormond Beach, Volusia County, Florida, such land being more particularly described and identified on Sheets 2 & 3 of Exhibit A, (Exhibit A-2) to this Declaration of Condominium does hereby submit said land and the improvements to be constructed thereon to the condominium form of ownership pursuant to the provisions of Chapter 718, Florida Statutes, hereinafter Condominium Act, and pursuant to the terms and provisions of this Declaration of Condominium, hereinafter Declaration.

1. **Name.** The name by which this Condominium is to be identified is THE ORMOND HERITAGE, A CONDOMINIUM.

2. **Definitions.** The following words and terms used in this Declaration and in its exhibits, including but not limited to the Articles of Incorporation and By-Laws of The Ormond Heritage Condominium Management Association, Inc. shall be defined as follows, unless the context otherwise requires:

2.1 **Association.** Association means The Ormond Heritage Condominium Management Association, Inc., a Florida corporation not-for-profit.

2.2 **Building.** Building means the building which contains the Units and certain of the Common Elements.

2.3 **Common Elements.** Common Elements means the portions of the Condominium Property not included in the units, including but not limited to the following:

(a) The Condominium Property which is not included with the units.

(b) Easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of Utility Services to units or the Common Elements.

(c) An easement of support in every portion of a unit which contributes to the support of the Building.

(d) The property and installations required for furnishing of Utility Services or other services to more than one Unit or to the Common Elements.

2.4 **Common Expenses.** Except for special assessments pursuant to Paragraph 9.2(d)(1) and Paragraph 9.2(e)(3)(ii) hereof, Common Expenses means all expenses and assessments properly incurred by the Association for the Condominium including but not limited to the following:

(a) Expenses of administration and management of the Condominium Property.

(b) Expenses of maintenance, operation, repair or replacement of the Common Elements, Limited Common Elements, and of the parts of the units to be maintained by the Association.

(c) Costs and expenses of capital improvements and betterments and/or additions to the Common Elements.

(d) That portion of the expenses of administration and management of the Association attributable to the Condominium as hereinafter set forth and as set forth in the Articles of Incorporation and By-Laws of the Association.

(e) Expenses declared Common Expenses by the provisions of the Condominium Act, this Declaration, the Articles of Incorporation and By-Laws of the Association.

(f) Any valid charge against the Condominium Property as a whole.

2.5 **Condominium.** Condominium means that form of ownership of real property which is created pursuant to the provisions of the Condominium Act, and which is comprised of Units that may be owned by one or more persons and there is appurtenant to each unit an undivided share in Common Elements.

2.6 **Condominium Parcel or Apartment.** Condominium Parcel or Apartment means a unit together with the undivided share in the Common Elements which is appurtenant to the unit.

2.7 **Condominium Property.** Condominium Property means the land, leaseholds and personal property that are subject to Condominium ownership, whether or not contiguous, all improvements thereon, and all easements and rights appurtenant thereto intended for use in connection with the Condominium.

2.8 **Developer.** Developer means The Ormond Associates, a Florida General Partnership, and any successor Developer as defined by Florida Statutes or by The Florida Administrative Code. In addition, any holder of a mortgage which acquires more than half of the units, either by foreclosure or by deed in lieu of foreclosure, shall succeed to the rights and privileges of the Developer, and shall have the right to convey and assign same to any purchaser from such holder, even though such holder shall not

be a Developer or Successor Developer as defined by Florida Statutes or the Florida Administrative Code.

2.9 **Limited Common Elements.** Limited Common Elements means those Common Elements which are reserved for the use of a certain unit to the exclusion of other units. Any reference made to Common Elements in the provisions of this Declaration or in The Articles of Incorporation or By-Laws of the Association meant to include Limited Common Elements unless the latter is excepted or deal with separately.

2.10 **Person.** Person means an individual, trust, estate partnership, association, company, corporation, joint venture or any legal entity or combination thereof.

2.11 **Unit.** Unit means a part of the Condominium Property which is subject to exclusive ownership.

2.12 **Unit Owner.** unit Owner means the record owner of a Condominium Parcel and includes Developer so long as it shall own any Condominium Parcel.

2.13 **Utility Services.** Utility Services shall include but not be limited to electric power, gas, water, heating and air conditioning, garbage and sewage disposal, storm drainage, telephone and cable T.V.

2.14 **Very Substantial Loss or Damage.** Very Substantial Loss or Damage means loss or damage whereby two-thirds or more of the total unit space in the Building is rendered untenable and/or loss or damage whereby two-thirds or more of casualty insurance coverage becomes payable.

3. Description, Boundaries and Related Items.

3.1 **Survey, Graphic Description, Plot Plan and Certificate of Surveyor.** Section 718.104(4), of the Florida Statutes requires that the Declaration contain or provide for certain matters. Paragraph (e) of said Subsection (4) provides and requires "a survey of the land and a graphic description of the improvements in which units are located and a plot plan' thereof that, together with the declaration, are in sufficient detail to identify the common elements and each unit and their respective locations and approximate dimensions. The survey, graphic description and plot plan may be in the form of exhibits consisting of building plans, floor plans, maps, surveys or sketches." Paragraph (e) also provides and requires that "if the construction of the condominium is not substantially completed, there shall be a statement to that effect, and upon substantial completion of construction, the developer or the association shall amend the declaration to include the certificate described below." with respect to the certificate, paragraph (e) further

provides the "A certificate of a surveyor, authorized to practice in this state shall be included or attached to the declaration or the surveyor the graphic description as recorded under Florida Statute 718.105, that the construction of the improvements is substantially complete so that the material, together with the provisions of the declaration describing the condominium property is an accurate representation of the location and the dimensions of the improvements, and that the identification, location and dimensions of the common elements and of each unit can be determined from these materials." Attached hereto and made a part hereof as Exhibit A to this Declaration is a survey of the land, a graphic description of the improvements in which units are located and a plot plan thereof, all as required and meeting the requirements of Paragraph (e). Upon substantial completion of the Condominium and prior to the conveyance of Condominium Parcels by the Developer to purchasers, Exhibit A to the Declaration will include the certificate of a surveyor and, if necessary, Exhibit A or any part thereof will be amended in order to insure that the requirements of Paragraph (e) are fulfilled.

3.2 Changes to Interior Layout, Design and Arrangement of Units. Developer reserves the right to change the interior layout, design and arrangement of any Unit (i) so long as Developer owns the units so changed; (ii) provided such change is approved by a majority of total voting interests hereunder; (iii) provided such changes shall be reflected by an amendment to this Declaration; and (iv) provided that an amendment for such purpose shall be signed and acknowledged by the Developer and the Association. A certificate of the Association shall be required in the form and manner provided for in Paragraph 13.5 below.

3.3 Changes to Boundaries and Unit Dimensions. Developer reserves the right to change the boundaries between or among units so long as Developer owns the units so changed and provided such change is approved by a majority of total voting interests hereunder. No such change shall be made without amending this Declaration in the manner provided by law. The amendment for such purpose shall be signed and acknowledged by the Developer and the Association. A certificate of the Association shall be required in the form and manner provided for in Paragraph 13.5 below.

3.4 Easements. Each of the following easements is reserved and shall exist under, through and over the Condominium Property as applicable.

(a) **Utilities.** The Developer reserves the right to grant such easements as may be required for the furnishing of utility Services or other services to service the Condominium Property and adjacent properties, as more fully set in the Covenants, Restrictions and Servitudes attached to the Declaration of Condominium.

(b) **Encroachments.** In the event that any unit shall encroach upon any of the Common Elements or upon any other unit for any reason other than the intentional or negligent act of the unit Owner, or in the event any Common Element shall encroach upon any Unit, then an easement shall exist to the extent of such encroachment so long as the same shall exist.

(c) **Developer.** Until such time as Developer or any Successor Developer as defined by Florida Statutes or by the Florida Administrative Code, has completed all of the contemplated improvements on the land and sold all of the units contained within the Building, easements, including but not limited to ingress and egress, are hereby reserved to Developer and shall exist under, through and over the Condominium Property as may be required by Developer for the completion of the contemplated improvements and the sale of said units. Neither the unit Owners, nor the Association, nor the use of the Condominium Property shall in any way interfere with said completion of the contemplated improvements and sale of the units.

(d) **Access and Repairs.** A non-exclusive easement for ingress and egress over the streets, walks, and other rights of way serving the Units as necessary to provide access to public rights of way. The association shall have the irrevocable right of access to each unit during reasonable hours, when necessary for the maintenance, repair or replacement of any common elements, or for making emergency repairs which are necessary to prevent damage to the common elements or to another unit or units.

(e) **Licenses.** The .association shall have the right to grant permits, licenses and easements over the common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the project.

3.5 **Improvements, General Description.**

(a) **Units.** There are one hundred fifty-six residential units in the Building, each unit being identified by the use of a number or a letter, or a combination thereof such that each Unit will have a different number as follows. The first unit (Unit 01) is in the Southwest Corner. of the floor. The ground floor units are numbered 101 through 104; 106 through 109; 113 through 116; and 118 through 121. The second floor, and Floors 3 through 7 will be numbered so that the first digit corresponds to the floor number and the last two digits are 01 through 21, but omitting 210 through 212. The top floor contains the Penthouse Units which are labeled PH-1 through PH-7, and Units 814 through 818 as described in the Exhibits attached hereto.

(b) **Other Improvements.** The Condominium

Property contains other improvements, including but not limited to, landscaping, parking areas, a swimming pool, walkways, driveways.

3.6 **Unit Boundaries.** The boundaries of each unit are shown on Exhibit A and a narrative description of such boundaries is as follows:

(1) **Upper Boundary.** The upper boundary of each unit shall be the horizontal plane of each part of the unfinished concrete surface of the underside of the structural slab located between the exterior and interior perimetrical boundaries, extending to intersections with each part of the exterior and interior perimetrical boundaries.

(2) **Lower Boundary.** The lower boundary of each unit shall be the horizontal plane of each part of the unfinished concrete surface of the top side of the structural slab located between the exterior and interior perimetrical boundaries, extending to intersections with each part of the exterior and interior perimetrical boundaries.

(3) **Exterior Perimetrical Boundary.** The exterior perimetrical boundary of each unit shall be the vertical plane of each part of the unfinished interior concrete surface of the exterior walls, extending to an intersection with each part of each other and extending to an intersection with each part of the upper and lower boundaries. Where a Unit has a balcony, the balcony shall be deemed part of the unit. Where the balcony walls do not exist to physically intersect with each part of each other and with each part of the upper boundary, such boundary shall be an imaginary vertical plane located between each part of each physically existing exterior perimetrical boundary and each part of the upper boundary, extending to an intersection with each part of each other. Where the balcony walls do not exist to physically intersect with each part of each other and with each part of the upper and lower boundaries, such boundary shall be an imaginary vertical plane located between each part of each physically existing exterior perimetrical boundary, extending to an intersection with each part of the upper boundary and extending to an intersection with each part of the lower boundary.

(4) **Interior Perimetrical Boundary.** The interior perimetrical boundary of each unit shall be the vertical or horizontal plane, as the case may be, of each part of the unfinished concrete and/or masonry and/or gypsum surface of certain walls and/or party walls, as shown on Exhibit A, extending to an intersection with each part of each other and extending to an intersection with each part of the upper and lower boundaries. Where part of such walls do not exist to physically intersect with each part of each other and with each

part of the lower boundary, as in the case of door openings, such boundary shall be an imaginary vertical plane located between each part of the physically existing interior perimetrical boundary which surrounds each part of any such opening, extending to an intersection with each part of the lower boundary.

3.7 Common Elements. The Common Elements shall include the portions of the Condominium Property not included in the Units, as defined in Paragraph 2.3 and as shown on Exhibit A.

4. Appurtenances to Units. Appurtenances to each unit shall include but not be limited to the following, and all appurtenances shall pass with the title to each unit, whether or not separately described.

4.1 Common Elements. Each unit Owner shall own an undivided share in the Common Elements, which share shall be an appurtenance to each unit. The undivided share in the Common Elements appurtenant to each unit is described on Exhibit "B" to this Declaration.

4.2 Limited Common Elements. The limited common elements are reserved for the use of the Unit Owner which they are assigned. The limited common elements in this condominium shall include the following:

(a) Parking Spaces. After the turnover of control to the Association by the Developer as defined in F.S. 718.301, if the Association decides to assign to the owners of units the exclusive use of underground parking spaces, the Association may assign to each unit one underground parking space, except unit 114 which will not have the right to be assigned an underground parking space. Such assigned spaces all be limited common elements hereunder, the use of which shall be restricted to the owner to which such parking space is assigned. The Association may keep a "parking assignment book" in which the site plan of the parking garage is kept, and all spaces assigned to Units shall be recorded in the "parking assignment book". The Developer will not initially assign a parking space to each unit, and shall leave the establishment of the "parking assignment book" for the Association. After the Developer turns over "control" as defined in Florida Statutes Chapter 718, the Association shall be responsible for initiating and maintaining such "parking assignment book" and shall develop rules and regulations regarding both initial assignments of parking spaces, and any revision thereof or reassignments of parking spaces. Each assigned parking space shall be numbered by the Association with the Unit Number to which such space is assigned in the "parking assignment book".

(b) Swimming Pool. Use of the outdoor swimming pool is reserved for the use of owners of all units except unit 114, the owners of which unit do not have the right to the use of the swimming.

(c) Ballroom Lounge, Exercise Room and Hobby Room. Use of these rooms and portions of the Common Elements is reserved for the use of unit owners of all units except Unit 114, the owners of which do not have the right to the use of such facilities.

5. Liability for Common Expenses and Interest in Common Surplus.
Each unit Owner, including the Developer so long as it shall own any Units, shall be liable for a proportionate share of the Common Expenses, such share being identical to the undivided share of each Unit Owner as set forth on the attached Exhibit "B". Each Unit Owner shall have an interest in the common surplus of the Association, such interest being set forth in Exhibit "B" attached hereto and incorporated herein. Such interest in the common surplus does not, however, include the right to withdraw, require payment or distribution of the common surplus. Additionally, each owner of a unit which has the benefit of the Limited Common Elements shall pay an amount to be determined by the Association which will pay the costs of maintenance, upkeep, repairs and will provide for reserves pertaining solely to the Limited Common Elements.

6. Maintenance, Repair and Replacement; Changes, Improvements and Additions; Condominium Property. Responsibility for the maintenance, repair and replacement of the Condominium Property and restrictions upon changes, improvements and additions thereto shall be as follows:

6.1 Maintenance, Repair and Replacement - Association.
The Association shall be responsible for the maintenance, repair and replacement of the Common Elements provided that any maintenance, repair or replacement to the exposed Common elements shall not result in a change to the appearance of the Building different from its appearance as originally constructed. The Association shall also be responsible for the maintenance, repair and replacement of conduits, ducts, plumbing lines, wiring and other equipment located within a Unit, provided each of the preceding are utilized for the purpose of furnishing Utility Services to part or parts of the Building other than the unit within which located or are utilized for the purpose of furnishing utility Services to more than one Unit. The Association shall further be responsible for, and unit Owners shall not undertake, the maintenance, repair or replacement, except for routine maintenance, minor repairs or minor replacements which shall be the responsibility and costs of each unit Owner, of certain exterior exposed parts of each Unit, such parts being the exterior glass windows, the exterior glass doors,

the exterior panels and, the exterior surfaces which vertically and horizontally face the balcony areas of each unit, provided that any routine maintenance, minor replacements by unit Owners and any maintenance, repair or replacement of such exterior glass doors, exterior glass windows, exterior panels, parapet walls and exterior surfaces by Association shall not result in a change to the appearance of the Building different from its appearance as originally constructed and, further, provided that, where such exterior surfaces cannot be maintained, repaired or replaced, except by maintenance, repair or replacement of the surface beneath such exterior surfaces, then the Association shall be responsible for the maintenance, repair or replacement of the surface beneath such exterior surfaces. The Association shall further be responsible for all incidental damage to a Unit by reason of any maintenance, repair or replacement undertaken by it pursuant to all of the preceding. All costs associated with the Association's responsibilities of maintenance, repair and replacement shall be a Common Expense. If a dispute should occur as to whether maintenance is routine or a repair or a replacement is minor, the Board of Directors of the Association shall decide the question and their decision shall be binding and conclusive upon all Unit Owners.

6.2 Maintenance, Repair and Replacement - Unit Owners. Each unit Owner shall at his cost be responsible for the maintenance, repair and replacement of all parts of his unit, including routine maintenance, minor repairs and minor replacements as provided in Paragraph 6.1, and including but not limited to maintenance, repair and replacement of all fixtures, mechanical and electrical equipment such as heating and air conditioning systems and any other item of equipment, furnishings and any other item contained with each Unit, except as otherwise provided in Paragraph 6.1. Whenever maintenance, repair or replacement, for which a unit Owner is responsible, results from loss or damage which is covered by insurance maintained by the Association, the proceeds of such insurance received by the Association shall be used for the purpose of any such maintenance, repair or replacement, except that the unit Owner shall be required to pay such part of the cost of such maintenance, repair or replacement that, by reason of the applicability of any deductibility provision of such insurance, exceeds the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

6.3 Changes, Improvements and Additions, Association. After completion by Developer of the improvements to the Condominium Property and except as otherwise provided below, the Association shall have the right to make or cause to be made changes, improvements or additions to the Common Elements provided any such changes, improvements or additions are approved by the Board of Directors of the Association. The cost of any such changes, improvements or additions shall be a Common

Expense. The Association shall not, however, make or cause to be made any changes, improvements or additions to the Common Elements which would result in the partial or total enclosure of any part or all of any balcony or terrace or which would result in a change to the appearance of the Building different from its appearance as originally constructed. This paragraph shall, however, have no application to the rights vested in Developer pursuant to the provisions of Paragraphs 3.2 and 3.3 hereof.

6.4 Changes, Improvements and Additions, Unit Owners.

Except as otherwise provided herein, a Unit Owner may at his cost make such changes, improvements or additions to his Unit as he may desire, except that a Unit Owner shall not make any changes, improvements or additions to the exterior exposed to the elements parts of his Unit which the Association is required to maintain, repair or replace pursuant to the provisions of Paragraph 6.1 and, except that, a Unit Owner shall not make any changes, improvements or additions to his Unit which would result in the partial or total enclosure of any part or all of his balconies except as authorized under Florida Statutes 718.113(5).

7. Assessments. The Board of Directors of the Association shall fix and determine from time to time the sum or sums of money necessary and adequate to provide for the Common Expenses and shall assess the Unit Owners for said sums. The procedure for the making and collection of such assessments shall be set forth in the By-Laws of the Association. All assessments⁷ including special assessments pursuant to Paragraphs 9.2(d) (1) and 9.2(e) (3) (ii) hereof, shall be the personal obligation of each Unit Owner, and each Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the unit Owner, including interest thereon, as hereinafter provided, and all costs incident to the collection thereof including attorney's fees at trial or on appeal. In a voluntary conveyance (other than a deed in lieu of foreclosure), the grantee shall be jointly and severally liable with the grantor for his share of all assessments up to the time of conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by the grantee.

7.1 Interest, Application of Payments. All assessments, including special assessments pursuant to Paragraphs 9.2(d) (1) and 9.2(e) (3) (ii) hereof, and installments thereon not paid when due shall bear interest at the rate of 18 percent per annum from the date when due until paid. All payments on account shall be first applied to interest, and then to the assessment payment first due.

7.2 **Lien for Assessments.** The Association shall have a lien against each Condominium Parcel for any unpaid assessments, including special assessments pursuant to Paragraph 9.2(d) (1) and 9.2(e) (3) (ii) hereof, and for interest accruing thereon, which lien shall also secure reasonable attorney's fees incurred by the Association incident to the collection of any such assessment or enforcement of such lien, whether or not legal proceedings are initiated. The lien is effective and shall relate back to the recording of the original Declaration of Condominium. However, as to first mortgagees of record, the lien is effective from and after recording of a claim of lien in the Public Records of Volusia County, Florida. All such liens shall state the legal description of the condominium unit, the name of the unit owner, the name and address of the Association, the amount due and the due dates. No lien shall continue for longer than one year unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. Such claim of lien shall be signed and acknowledged by an officer of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien, to be prepared and recorded at his expense. The assessment lien provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Condominium Parcel subject to assessments, provided that such mortgage or mortgages are recorded prior to the Association's claim of lien. The Association's lien may be foreclosed by suit brought in the name of the Association in like manner as a foreclosure of a mortgage on real property, and the Association may also, at its option, sue to recover money judgments for any unpaid assessments without thereby waiving the lien securing the same.

When the mortgagee of a first mortgage of record or other purchaser of a Condominium Unit obtains title to the Condominium unit as a result of foreclosure of the first mortgage, or as a result of a deed given in lieu of foreclosure, such acquirer of title and his successors and assigns shall be liable for the unpaid assessments that become due prior to mortgagees receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding six (6) months, and in no event shall the mortgagee's liability exceed one percent (1%) of the original mortgage debt. The first mortgagee's liability for such expenses or assessments shall not commence until thirty (30) days after the date the first mortgagee received the last payment of principal or interest. In no event shall the mortgagee be liable for more than six (6) months of the unit's unpaid common expenses or assessments accrued before the acquisition of title to the unit by mortgagee or one percent (1%) of the original mortgage debt, whichever amount is less. The unpaid share of Common Expenses or any special assessments are collectible from all of the Unit Owners including such acquirer, his successors and assigns. A first mortgagee acquiring title to a Condominium

Parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not during the period of its ownership of such Condominium Parcel, whether or not such Condominium Parcel is unoccupied, be excused from the payment of some or all of the Common Expenses or any special assessments coming due during the period of such ownership.

7.3 Commencement of Assessments. Assessments for Common Expenses shall commence no earlier than the first day of the month next succeeding the date of closing the first Condominium Parcel purchase, except for the Developer who shall begin to pay assessments on Developer-owned units on the first day after the fourth calendar month after the date of closing of the first Condominium Parcel purchase. However, the Developer must pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners as provided in Florida Statute 718.116(9) (a).

7.4 Working Capital Fund. Each purchaser of a Condominium Parcel from the Developer shall pay **FOUR HUNDRED AND NO/100 (\$400.00) DOLLARS** at the time of closing of the Condominium Parcel, which amount shall be contributed to an initial working capital fund of the Association. After the first day of the fourth calendar month after the date of closing of the first condominium purchase, it may be utilized for the purchase of pool and office furniture and other furniture, building and grounds equipment and other equipment, lawn mowers, office supplies, utility deposits, other supplies and for start-up Common Expenses and other Common Expenses paid or accrued prior or subsequent to the commencement date of assessments and for any purpose for which the Association could levy an assessment.

8. Association. The operation of the Condominium shall be by The Ormond Heritage Condominium Management Association, Inc., a corporation not-for-profit under the laws of the State of Florida. Each Unit Owner shall hold membership in the Association and an interest in the funds and assets held by the Association. Membership of each Unit Owner in the Association shall be acquired pursuant to the provisions of the Articles of Incorporation and By-Laws of the Association. The interest of each unit Owner in the funds and assets of the Association shall be in the same proportion as the liability of each unit Owner for Common Expenses. The Association shall fulfill its functions pursuant to the following:

8.1 The Condominium Act. The Condominium Act.

8.2 Declaration of Condominium. This Declaration of Condominium

8.3 **Articles of Incorporation.** The Articles of Incorporation of the Association, a copy of which is attached hereto and made a part hereof as Exhibit c.

8.4 **By-Laws.** The By-Laws of the Association, a copy of which is attached hereto and made a part hereof as Exhibit D.

8.5 **Restraint Upon Assignment of Shares and Assets.** The share of a member in the funds and assets of the Association cannot and shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to his Condominium Parcel.

8.6 **Contracts.** The Association, prior to passage of control, as described in the By-Laws and Florida Statutes 718.301 shall not be bound by and shall not enter into contracts or leases (including a management contract) unless there is a right of termination of any such contract or lease, without cause which is exercisable without penalty at any time after transfer of control upon not more than ninety (90) days notice to the other party.

9. **Insurance.**

9.1 **Liability Insurance.** The Board of Directors of the Association shall obtain public liability and property damage insurance covering all the Condominium Property, and insuring the Association, the unit Owners, as its and their interests appear, in such amount and providing such coverage as the Board of Directors of the Association may determine from time to time. Premiums for the payment of such insurance shall be paid by the Association, and such premiums shall be a Common Expense.

9.2 **Casualty Insurance.**

(a) **Purchase of Insurance.** The Association shall obtain fire and extended coverage insurance with other perils endorsement and vandalism and malicious mischief insurance, insuring all of the improvements on the Condominium Property, and all property owned by the Association, in and for the interests of the Association, all unit Owners and their first mortgagees of record, as their interests may appear, in a company acceptable to the Board of Directors of the Association, in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors of the Association. The premiums for such coverage and other expenses in connection with said insurance shall be paid by the Association and such premiums and other expenses shall be a Common Expense.

(b) **Loss Payable Provisions.** All policies purchased by the Association, shall be for the benefit of and made payable to the Association and all unit Owners, and their first mortgagees of record, as their interests may appear. Such

policies shall be deposited with the Association, and the policies and any proceeds thereof will be held in accordance with the terms hereof. Said policies shall provide that all insurance proceeds payable on account of loss or damage shall be payable to the Association. Mortgagee endorsements for first mortgages of

record shall be issued as to said policies. It shall be the duty of the Association to receive such proceeds as are paid, and hold the same in trust for the purposes elsewhere stated herein, for the benefit of the Association and the unit Owners and their respective first mortgagees of record in the following shares:

(1) **Common Elements.** Proceeds on account of loss or damage to Common Elements, an undivided share for each unit Owner, such share being the same as his undivided share in the Common Elements appurtenant to his unit.

(2) **Units.** Proceeds on account of loss or damage to units shall be in the following undivided shares:

(i) **Loss or Damage Less than Very Substantial Loss or Damage, or Very Substantial Loss or Damage when the Building is to be Repaired or Reconstructed.** Loss or damage less than Very Substantial Loss or Damage, or Very Substantial Loss or Damage when the Building is to be repaired or reconstructed, as hereinafter provided, for the unit Owners or the damaged Units in proportion to the cost of repairing or reconstructing the loss or damages suffered by each Unit Owner.

(ii) **Very Substantial Loss or Damage when Building is not to be Repaired or Reconstructed.** Very Substantial Loss or Damage when the Building is not to be repaired or reconstructed, as hereinafter provided, for all unit Owners, each Unit Owner's share being in proportion to his share in the Common Elements appurtenant to his unit.

(3) **Mortgages.** In the event a mortgagee endorsement has been issued to a Unit, the share of the unit Owner shall be held in trust for the first mortgagee of record and the Unit Owner, as their interests may appear, provided, however, that no first mortgagee of record or any other mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

(c) **Distribution of Proceeds.** Insurance Policy proceeds received by the Association shall be distributed to or for the benefit of the beneficial owners, and expended or disbursed in the following manner:

(1) **Reconstruction or Repair.** If the loss or damage for which the proceeds were paid is to be repaired or reconstructed, as hereinafter provided, the proceeds shall be

paid to defray the costs thereof. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, all remittances to Unit Owners and their first mortgagees of record being payable jointly to them and distributed, as between them, pursuant to the terms of the mortgage. This is a covenant for the benefit of any first mortgagee or record of a unit and may be enforced by such first mortgagee.

(2) **Failure to Reconstruct or Repair.** If it is determined in the manner hereinafter provided that the loss or damage for which the proceeds are paid shall not be repaired or reconstructed, the proceeds shall be disbursed to the beneficial owners, remittances to unit Owners and their first mortgagees of record being payable jointly to them and, as between them, distributed pursuant to the terms of the mortgage. This is a covenant for the benefit of any first mortgagee of record of a unit and may be enforced by such first mortgagee. In the event of loss or damage to personal property belonging to the Association, and should the Board of Directors of the Association determine not to repair or replace such personal property, the proceeds shall be disbursed to the beneficial owners as surplus, in the manner elsewhere stated herein.

(3) **Certificate.** Prior to making any distribution to Unit Owners and their first mortgagees, the Association shall prepare or cause to be prepared a certificate with the names of the Unit Owners and their first mortgagees of record, such certificate to be approved in writing by an attorney authorized to practice law in the State of Florida, or a title insurance company or abstract company authorized to do business in the State of Florida, prior to any distributions being made.

(d) **Loss of Damage Less than Very Substantial Loss or Damage.** Where loss or damage occurs with a Unit or Units, or to the Common Elements, or to any unit or units and the Common Elements, but said loss or damage is less than Very Substantial Loss or Damage, it shall be obligatory upon the Association and the unit Owners to repair or reconstruct the damage caused by said loss. Where such loss or damage is less than Very Substantial Loss or Damage, the Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the costs of repairing or reconstructing, and after obtaining the same the Association shall promptly contract for the repair or reconstruction of such loss or damage. No first mortgagee of record or any other mortgagee shall have the right to require the application of insurance proceeds to the payment of its loan except as to remaining proceeds, as provided in Paragraph 9.2(c) (1) hereof.

(1) **Assessments for Repair and Reconstruction.** If the proceeds of insurance are not sufficient to defray the estimated cost of repair or reconstruction, or if

at any time during repair or reconstruction, or upon completion of repair or reconstruction, the funds for payment of the cost of repair or reconstruction are insufficient, a special assessment shall be made by the Board of Directors of the Association in sufficient amount to provide funds for the payment of such costs. Such assessment shall be in proportion to each unit Owner's share of Common Elements.

(e) **Very Substantial Loss or Damage.** Should very Substantial Loss or Damage occur, then:

(1) The Board of Directors of the Association shall promptly obtain reliable and detailed estimates of the cost of repair or reconstruction.

(2) The Board of Directors of the Association shall ascertain as promptly as possible the net amount of insurance proceeds available for repair or reconstruction. No first mortgagee of record or any other mortgagee shall have the right to require the application of insurance proceeds to the payment of its loan except as to remaining proceeds, as provided in Paragraph 9.2(c) (1) hereof and except as provided in Paragraph 9.2(c) (2) hereof.

(3) Thereupon, a special meeting of members shall be called by the Board of Directors of the Association to be held not later than sixty days after the casualty, to effect the termination of the Condominium, subject to the following:

(i) If the net insurance proceeds available for repair or reconstruction are sufficient to cover the cost thereof, so that no special assessment is required, then the Building shall be repaired or reconstructed, unless two-thirds of the total number of members of the Association entitled to vote, vote to terminate this Condominium in which case the Condominium Property shall be removed from the provisions of the law by the recording, in the Public Records of Volusia County, Florida, of an instrument terminating this Condominium, which instrument shall further set forth the facts effecting the termination, certified by the Association and executed by its president and secretary. Termination of the condominium must be approved by all mortgagees of record as evidenced by written consents recorded in the public records of Volusia County, Florida. The termination of the Condominium shall become effective upon the recording of said instrument in the Public Records of Volusia County, Florida, and the unit Owners shall thereupon become owners as tenants in common of the Condominium Property, and their undivided interests in the Condominium Property as tenants in common shall be the same as their undivided interest in the Common Elements prior to termination. Upon termination, all mortgages and other liens upon Condominium Parcels shall become mortgages and liens upon the undivided interest of such tenants

in common, with the same priority as existed prior to the termination of the Condominium.

(ii) If the net insurance proceeds available for repair or reconstruction are not sufficient to cover the cost thereof, so that a special assessment will be required, the Board of Directors shall determine the amount of such assessment. If after discussion of such assessment, sixty percent of the total number of members of the Association entitled to vote shall vote to terminate this Condominium, then it shall be so terminated and the Condominium Property shall be removed from the provisions of the law in accordance with the procedures set forth in Paragraph 9.2(e)(3) (i) hereof, and the Unit Owners shall thereupon become owners as tenants in common of the Condominium Property in such undivided interest, and all mortgages and other liens upon the Condominium Parcels shall encumber the undivided interest of such tenants in common, as provided in Paragraph 9.2(e) (3) (i) hereof. If the Condominium is not terminated as above provided, the Board of Directors of the Association shall immediately levy such assessment, such assessment to be made in the manner and as provided in Paragraph 9.2(d) (1) hereof, and thereupon, the Association shall proceed to negotiate and contract for such repairs or reconstruction.

(4) If a dispute should occur as to whether Very Substantial Loss or Damage has occurred, the Board of Directors of the Association shall decide the question and their decision shall be binding and conclusive upon all unit Owners.

(f) **Surplus.** It shall be presumed that the first monies disbursed in payment of costs of repair or reconstruction shall be from the insurance proceeds, and if there is a balance in the funds after the payment of all costs of repair or reconstruction, such balance shall be distributed to the beneficial owners of the fund in the manner heretofore provided.

(g) **Plans and Specifications.** Any repair or reconstruction must be substantially in accordance with the plans and specifications for the original Building, or as the Building was last repaired or reconstructed.

(h) **Association's Power to Compromise Claim.** The Association is hereby irrevocably appointed agent for each unit Owner for the purpose of compromising and settling claims arising under insurance policies purchased by the Association and to execute and deliver releases therefore upon the payment of claims.

9.3 **Workmen's Compensation Policy.** Policies of workmen's compensation insurance shall be obtained to meet the requirements of law.

9.4 **Other Insurance.** The Association is authorized to obtain such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable. The Board of Directors of the Association may obtain insurance policies, as provided under this Paragraph 9, which contain such deductible clauses as the Board of Directors determines.

9.5 **Unit Owner's Insurance.** Each Unit Owner shall be responsible for purchasing, at his own expense, liability insurance upon his own personal property and such other insurance as he shall desire.

9.6 **Insurance Companies.** Insurance companies authorized to do business in the State of Florida shall be affirmatively presumed to be good and responsible companies, and the Board of Directors of the Association shall not be responsible for the quality of financial responsibility of the insurance companies provided same are licensed to do business in the State of Florida.

10. **Use Restrictions.** The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists.

10.1 **Units.** Each of the units shall be occupied only as a single family residential dwelling by the Unit Owner, members of his family, his guests, invitees, and lessees, and in the case of lessees, their families, guests and invitees. So long as Developer owns a Unit, it or its agents may utilize a unit or units for a sales office, a model Unit or any other usage for the purpose of selling units.

10.2 **Common Elements and Limited Common Elements.** The Common Elements and Limited Common Elements shall be used only for the purpose for which they are intended in the furnishing of services and facilities to the units and the unit Owners.

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

10.4 **Lawful Use.** No immoral, improper, offensive or unlawful use shall be made of the Condominium Property nor any part of it, and all valid laws, zoning ordinances and regulations of the governmental bodies having jurisdiction shall be observed.

10.5 **Leasing of units.** The leasing or renting of a Condominium unit is prohibited for lease periods of less than six months. All of the terms and provisions of the Condominium Act, the Declaration, Articles of Incorporation, the By-Laws, and the rules and regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a unit as a tenant to the same extent as against a unit Owner, and a covenant upon the part of each such tenant to abide by the rules and regulations of the Association, and the terms and provisions of the Condominium Act, this Declaration, the Articles of Incorporation and By-Laws of the Association.

10.6 **Signs.** No "For Sale" or "For Rent" signs or any other type of sign or other displays or advertising shall be maintained on any part of the Common Elements, Limited Common Elements or the units, except for identification signs located on the exterior of the Building which are part of the original construction of the Building or signs which are located within the interior of the Building not visible to view from the exterior of the Building and except that the right is specifically reserved to the Developer to place "For Sale" or "For Rent" signs in connection with any unsold or unoccupied units it may from time to time own.

10.7 **Parking Spaces.** No trucks other than pick-up trucks with a capacity of less than or equal to one-half (1/2) ton, commercial vehicles, boats, house trailers, boat trailers, mobile homes, campers or trailers of any description shall be parked in any parking space except with the written consent of the Board of Directors of the Association. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery, and such other services as may be necessary. One underground parking space may be assigned to each Unit as described in Paragraph 4.2 above. The unassigned parking spaces shall be considered common elements available to all owners.

10.8 **Rules and Regulations.** Rules and Regulations concerning use of the Condominium Property shall be made by and may be amended from time to time by the Board of Directors of the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all unit Owners and residents of the Building upon request.

10.9 **Clothes Drying.** All outdoor drying of clothes by line, rack, balcony wall, railing or otherwise shall be prohibited.

10.10 **Antennae.** No television or radio antennae or towers of any nature shall be erected on any part of the Condominium Property, except that one antenna or receiver may be

used as a master antenna for each Building.

10.11 **Cooking.** No cooking of any nature whatsoever shall take place or be permitted on Unit balconies.

10.12 **Pets.** Owner, guests or lessees are not permitted to have dogs larger than lap dogs (small enough to be held in the owner's lap, and weighing less than 30 pounds) on Condominium Property or in owner's apartment. Dogs, when not in owner's apartment must be on leash and may be exercised on Condominium Property in designated area only. Owner, guest or lessee is liable for any damage to Condominium Property by action of his/her dog. Pet "accidents" occurring on any common area going to or coming from designated area must be immediately cleaned up by the owner involved.

10.13 **Children.** There are no restrictions upon the residence of children.

10.14 **Developer's Use.** Until such time as Developer or its successors has completed all the contemplated improvements of the Condominium and closed the sale of all the Condominium Parcels, neither the Unit Owners nor the Association, nor the use of the Condominium Property shall interfere with the completion of the contemplated improvements and the sale of the Condominium Parcels. Developer or its successors and assigns may make such use of any unsold Units, and the Common Elements as may facilitate such completion and sale including but not limited to maintenance of a sales office, showing of the Units, and the display of signs.

11. **Transfers of Condominium Parcels.** There are none nor shall there be any restrictions or limitations upon the sale, transfer, conveyance, mortgaging, or other disposition of a Condominium Parcel.

12. **Compliance and Default.** Each unit Owner shall be governed by and shall comply with the terms and provisions of the Condominium Act, this Declaration, the Articles of Incorporation and By-Laws of the Association, and the rules and regulations adopted pursuant thereto, as they all may be amended from time to time. Failure of a Unit Owner to comply shall entitle the Association or any aggrieved party to the following relief in addition to the remedies provided by the Condominium Act.

12.1 **Negligence.** A unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act or neglect, or the act or neglect of any member of his family, his guests, employees, agents, invitees or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

12.2 **No Waiver of Rights.** The failure of the Developer, the Association or any unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and By-Laws of the Association, or the rules and regulations of the Association shall not constitute a waiver of the right to do so thereafter.

13. **Amendments.** Except as otherwise provided in Paragraph 3.1, 3.2 and 3.3, and except as otherwise provided in Paragraph 13.4, amendments to this Declaration shall be proposed and adopted in the following manner.

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

13.2 **Resolution.** A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors of the Association or by the members of the Association entitled to vote at an Association meeting. Such members may propose such an amendment by instrument in writing directed to the president or secretary of the Association signed by a majority of such members. Amendments may be proposed by the Board of Directors by action of a majority of the Board of Directors at any regular or special meeting thereof. Upon an amendment being proposed as herein provided, the secretary of the Association shall call a special meeting of the members of the Association to be held not sooner than twenty days nor later than sixty days thereafter for the purpose of considering said amendment. Such amendment must be approved by the affirmative vote of two-thirds of the total number of Association members entitled to vote.

13.3 **Limitations.** No amendment to this Declaration amending Paragraph 9, entitled "Insurance", or any part thereof, including sub-paragraphs, shall be effective unless all first mortgagees of record shall join in the execution of any such amendment, nor shall any amendment to Paragraph 10.5, entitled Leasing of Units, or any part hereof, be effective unless Unit Owners of all Condominium Parcels join in the execution of any such amendment. Further, no amendment shall make any changes which would in any way affect any of the rights, privileges, or powers herein provided in favor or reserved to the Developer, unless the Developer shall join in the execution of any such amendment. Further, no amendment to Paragraph 14, entitled "Termination", or any part thereof, including sub-paragraphs, shall be effective unless the Unit Owners of all Condominium Parcels and the owners of all first mortgages of record on Condominium Parcels join in the execution of any such amendment. Further, no amendment to Paragraph 6, entitled "Maintenance, Repair and Replacement; Changes, Improvements and Additions; Condominium Property", or any part thereof, including

sub-paragraphs, shall be effective unless the Unit Owners of all Condominium Parcels join in the execution of any such amendment.

13.4 **Amendments Prior to Transfer of Control of Association.** Notwithstanding the provisions of Paragraphs 13.2 and 13.3 hereof, until the first election of the members of the Board of Directors by Unit Owners, as provided in the Articles of Incorporation and By-Laws of the Association, proposal of an amendment other than an amendment described in Section 718.110(4) and (8) Florida Statutes shall be made by the Board of Directors. Approval thereof shall require only the affirmative vote of all of the Directors at any regular or special meeting thereof. Amendments relating to matters described under Florida Statutes 718.110(4) must be joined in execution by the record owner of any unit so affected and all record owners of liens on such unit. Additionally, the record owners of all other units must approve the amendment. No amendment may permit time share estates to be created unless the record owner and all lien holders on each unit join in the execution of such amendment as required under Florida Statutes 718.110(8).

13.5 **Execution and Recording.** Except as otherwise provided in this Declaration or in the Condominium Act, a copy of each amendment shall be attached to a certificate which shall include the recording date identifying the Declaration, certifying that the amendment was duly adopted, and said certificate shall be executed by the president of the Association and attested to by the secretary with the formalities of a deed and shall be effective upon recordation thereof in the Public Records of Volusia County, Florida.

14. **Termination.** The Condominium may be terminated as provided in Paragraphs 9.2(e) (3) (i) and 9.2(e) (3) (ii)

hereof, and in the following manner:

14.1 **Agreement.** The Condominium may be terminated at any time by the approval in writing of all Unit Owners together with the approval in writing of all owners of first mortgages of record on Condominium Parcels. Upon approval as aforesaid, the Condominium Property shall be removed from the provisions of law by the recording, in the Public Records of Volusia County, Florida, of an instrument terminating this Condominium, which instrument shall further set forth the facts effecting the termination, certified by the Association and executed by its president and secretary. The termination of the Condominium shall become effective upon the recording of said instrument in the Public Records of Volusia County, Florida, and the unit Owners shall thereupon become owners as tenants in common of the Condominium Property, and their undivided interests in the Condominium Property as tenants in common shall be the same as their undivided interests in the Common Elements prior to termination. Upon termination, all mortgages and other liens

upon Condominium Parcels shall become mortgages and liens upon the undivided interests of such tenants in common, with the same priority as existed prior to the termination of the Condominium.

15. **Severability.** Invalidation of any of the provisions of this Declaration, the Articles of Incorporation or By-Laws of the Association shall not affect any of the remaining provisions, which shall remain in full force and effect.

16. **Title and Captions.** Title or other captions contained in this Declaration, the Articles of Incorporation or By-Laws of the Association are inserted only as a matter of convenience and for reference purposes and in no way define, limit, extend or describe the scope of this Declaration, the Articles of Incorporation or the By-Laws of the Association, or the intent of any provision.

17. **Person and Gender.** Whenever the singular number *is* used in this Declaration, the Articles of Incorporation or the By-Laws of the Association, and when required by the context, the same shall include the plural, and masculine gender shall include the feminine and neuter genders.

18. The Developer agrees to and shall convey one unit to **The Ormond Heritage Condominium Management Association, Inc.** for use by the Association, and the consideration for such transfer shall be Association's assumption of or agreement to obtain a loan and grant a mortgage in an amount of 80% of the value of the unit as determined by the Developer.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Condominium to be executed this 12 day of October, 19 95.

WITNESSES

Laura F. Buckley

Laura F. Buckley

(Printed Name of Witness)

G. Larry Sims

G. Larry Sims

(Printed Name of Witness)

THE ORMOND ASSOCIATES,
A Florida General Partnership

BY: PECK REALTY AND CONDOMINIUM
DEVELOPMENT, INC., General Partner

By: **Edwin W. Peck, Sr.**

EDWIN W. PECK, SR., PRESIDENT

STATE OF FLORIDA
COUNTY OF VOLUSIA

THE FOREGOING INSTRUMENT was acknowledged before me this 12
day of OCTOBER, 1995, by EDWIN W. PECK, SR., who is
personally known to me and who is the President of PECK REALTY AND
CONDOMINIUM DEVELOPMENT, INC., General Partner of THE ORMOND
ASSOCIATES, a Florida General partnership.

Laura F. Buckley

Notary Public

My Commission Expires:

ADDENDUM TO DECLARATION OF CONDOMINIUM
CERTIFICATE OF SURVEYOR

STATE OF FLORIDA
COUNTY OF VOLUSIA

I, **J. E. Zapert**, of **Port Orange**
Volusia County, Florida, certify as follows:

1. I am a surveyor authorized to practice in the State of Florida; my surveyor's registration number is **4046**.

2. This Certificate is made as to **THE ORMOND HERITAGE, A CONDOMINIUM** located at Ormond; Beach, Florida.

3. The undersigned has examined the survey, graphic descriptions and plot plan comprising Exhibit "A" to the Declaration of Condominium of **THE ORMOND HERITAGE, A CONDOMINIUM** as set forth herein.

4. Units 114 ,through 121; 214 through 221; 314 through 321; 414 through 421; 514 through 521; 614 through 621; 714 through 721, PH-S, PH-6 and units 814 through 818 are all located in the North Building as described in the exhibits attached to the Declaration of Condominium. Such units are substantially completed and all planned improvements including but not limited to landscaping, utility services and access to the unit, and common element facilities serving such building as set forth in the Declaration are substantially completed.

5. The construction of the North building and the units listed above is substantially complete so that the exhibits to the Declaration and the provisions of the Declaration describing the condominium property are an accurate representation of the location and dimensions of the improvements to the North building and the units located therein, and so that the identification location and dimensions of the common elements in the North building and of each unit in the North building (and listed above) can be determined from these materials.

BY: **JOSEPH E. ZAPERT**
JOSEPH E. ZAPERT

SWORN AND SUBSCRIBED TO before me this **16th** day of **October**, 1995, by **JOSEPH E. ZAPERT**, of **Sliger & Associates, Inc.**, who is personally known to me or provided the following identification: _____, and who did take an oath.

Brandy J. Vanslette

Notary Public, State of Florida at Large
My Commission Expires:

**JOINDER OF MORTGAGEE AND ASSIGNMENT
OF DEVELOPER'S RIGHTS**

First Union National Bank of Florida ("FUNB"), the owner and holder of a mortgage from THE ORMOND ASSOCIATES, a Florida General Partners ("Developer"), recorded in Official Records Book 3922, page 1275, of the public records of Volusia County, Florida (the "Mortgage"), encumbering the property described therein (the "Mortgaged Property"), and Developer agree as follows:

1. FUNB does hereby consent to the execution and recording of the Declaration of Condominium (the "Declaration") of The Ormond Heritage, A Condominium (the "Condominium") recorded in Official Records Book 4045, page 4588 or under Clerk's No. 95/56371 in the public records of Volusia County, Florida, and hereby joins in the execution of the Declaration.

This Joinder is made without any representation or warranty, expressed or implied by virtue of law, statute, decisional or otherwise, as to the legality or validity of the Declaration, the condition of the land and improvements constituting the Condominium or their habitability, usefulness or fitness for any purpose and does not constitute a subordination of the lien of the Mortgage to any lien or assessment created or provided for in the Declaration or any other Condominium Documents (as hereinafter defined) or to any other lien encumbering or affecting the Mortgaged Property.

2. If FUNB, its nominee, designee, or any purchaser of FUNB's interest in the Mortgaged Property acquires title to any portion of the Mortgaged Property which is subject to the Declaration, by reason of foreclosure of the Mortgage or conveyance to FUNB, its nominee, designee or such other purchaser by deed in lieu of foreclosure of the Mortgage or subject to the Mortgage (i) FUNB, its nominee, designee, or such other purchaser shall succeed to all of the rights of and benefits accruing to Developer under the Declaration, Articles of Incorporation of the association for the Condominium (the "Association"), Bylaws of the Association, any purchase contract and any other documents in connection with the Condominium (the "Condominium Documents") and FUNB, its nominee, designee or such other purchaser shall be entitled to exercise all of the rights of and benefits accruing to the Developer under the Condominium Documents as if FUNB, its nominee, designee, or such other purchaser was originally named as the Developer in the Condominium Documents; (ii) FUNB, its nominee, designee, or such other purchaser shall have the immediate right to remove any and all directors and officers of the Association, anything in the Condominium Documents to the contrary notwithstanding and thereupon FUNB, its nominee, designee, or such other purchaser shall have the right to appoint directors and officers of the Association, anything in

the Condominium Documents to the contrary notwithstanding; and(iii) FUNB, its nominee, designee or such other purchaser shall have the right to designate the agent to receive service of process upon the Association. Contemporaneously with the recording of the Declaration of Condominium in the Public Records of Volusia County, Florida, or at such later date as FUNB shall request, Developer agrees to execute and deliver to FUNB such documents as FUNB and its counsel may require in order to insure that the provisions of this paragraph will be validly and legally enforceable and effective against Developer and all parties claiming by, through, under or against Developer, including, without limiting the generality thereof, a modification of the Mortgages in which the rights to be transferred under this paragraph are validly and legally assigned to FUNB. Developer hereby constitutes FUNB, its agents and attorneys as agent *for* Developer to execute on behalf of Developer any documents necessary to validly and legally carry out the right granted to FUNB under the terms of this paragraph. The foregoing power is deemed to be a power coupled with an interest and is irrevocable b Developer. To the extent any of the provisions of the Bylaws and any other Condominium Documents are inconsistent with the provisions of this paragraph, and to the extent not inconsistent with the provisions of Florida statutes Ch. 718, the Bylaws and any other Condominium are hereby modified.

IN WITNESS WHEREOF, the undersigned have executed this Joinder of Mortgagee and Assignment of Developer's Rights this 11th day of October, 1995.

Signed, sealed and delivered in the presence of:

FIRST UNION NATIONAL BANK
OF FLORIDA

Elsa Almestica

Print Name: Elsa Almestica

Gordon Elderdice

Print Name: Gordon Elderdice

Laura F. Buckley

Print Name: Laura F. Buckley

Marita D. Landry

Print Name: Marita D. Landry

BY: Lynn E. Vermilth

Print Name: Lynn E. Vermilth

Its Vice President

THE ORMOND ASSOCIATES, a Florida

General Partnership

By: Edwin W. Peck, Sr.

Print Name: Edwin W. Peck, Sr.

Its President

“Developer”

STATE OF FLORIDA
COUNTY OF

The foregoing instrument was acknowledged before me this
11th day of October, 1995, by Lynn E. Vermilth,
as Vice president of First Union National Bank of Florida, a national
banking association, on behalf of the association, who is personally
known to me.

ELSA ALMESTICA
NOTARY PUBLIC, STATE OF FLORIDA
My commission expires Jan. 9, 1998
Commission No. C C 3 4 0 5 0 7
Bonded thru Patterson - Becht Agency

Elsa Almestica
Print Name: Elsa Almestica
Notary Public, State and County
last aforesaid
My commission expires:
Commission number:

STATE. OF FLORIDA
COUNTY OF VOLUSIA

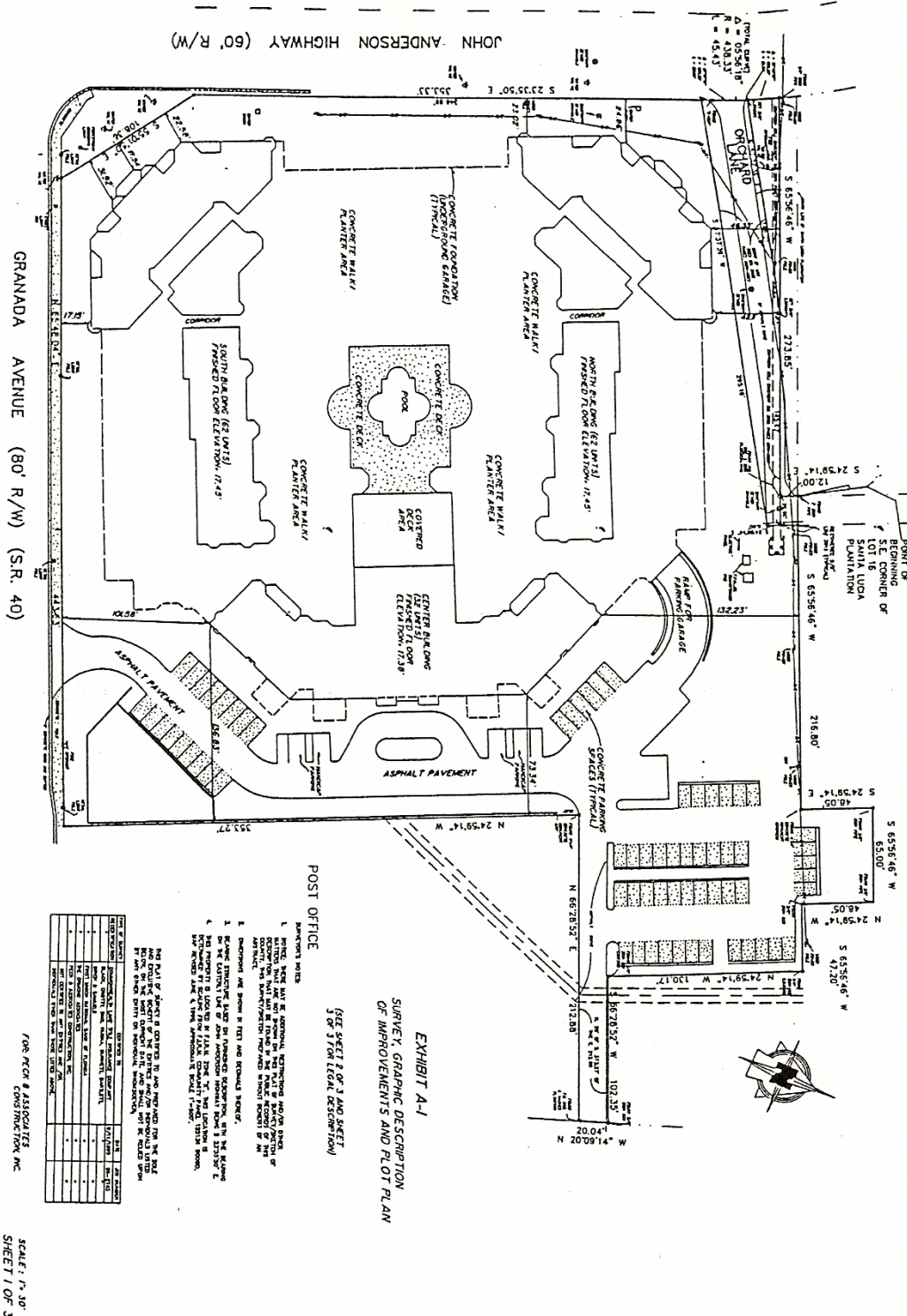
The foregoing instrument was acknowledged before me th s
6th day of October, 1995, by EDWIN W. PECK, SR., as
President of PECK REALTY & CDNCOMINIUM DE.VELDPMENT', Inc. **, on behalf of
said corporation, who is personally known to me or who has
produced N/A as identification and who ~~did~~ (did not) take an
oath.

**Managing General Partner of THE ORMOND ASSCCIATES, a Florida General Partnership,

Laura F. Buckley
Print Name: Laura F. Buckley
Notary Public, state and County
last aforesaid

My commission expires:

157792.1



	SLUGER & ASSOCIATES, INC. PROFESSIONAL LAND SURVEYORS	AMENDMENT 1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	LEGEND 1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	SURVEYOR'S CERTIFICATE I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the land surveyed, and that the same is a true and correct copy of the original survey as shown to me by the owner of the land surveyed, and that the same is a true and correct copy of the original survey as shown to me by the owner of the land surveyed.	FILE IN APPLICABLE INSTRUMENT <table style="width: 100%; border-collapse: collapse;"> <tr> <th>BOOK</th> <th>PAGE</th> <th>DATE</th> <th>FILED</th> <th>INDEXED</th> <th>RECORDED</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	BOOK	PAGE	DATE	FILED	INDEXED	RECORDED						
	BOOK	PAGE	DATE	FILED	INDEXED	RECORDED											
NOTES 1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____					DATE OF SURVEY _____												

EXHIBIT A-1

SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

MAIN OFFICE:
3921 SOUTH NOVA ROAD
PORT ORANGE, FL. 32127
(904) 761-3585

ORMOND BEACH OFFICE:
1414 W. GRANADABLVD., SUITE1
ORMOND BEACH, FL. 32174
(904) 673-3687

EXHIBIT A-2 DESCRIPTION:

Part of Government Lots 2 and 3, Section 14, Township 14 South, Range 32 East, Volusia County, Florida, being more particularly described as follows:

Beginning at the Southeast corner of Lot 16, San to Lucia Plantation as recorded In Map Book 2, Page 160, Public Records of Volusia County, Florida, run thence South 24 degrees 59 minutes 14 seconds East along' a Southerly projection of the' Westerly line of Orchard Street, a 20 foot street per sold Santa Lucia Plantation, a distance of 12 feet to a point; thence South 65 degrees, 56 minutes 46 seconds West parallel to and 12 feet Southerly of the South line of said Lot 16 a distance of 273.85 feet to a point on the Easterly line of John Anderson Highway, a 60 foot street as occupied and established, said point being, on a curve concave. Westerly; thence Southerly along said curve to the right having a radius of 438.33 feet. a central angle of 5 degrees 56' minutes 18 seconds, an arc length of 45.43 feet to a point; thence South 23 degrees 35 minutes 50 seconds East along said Easterly line a distance of 353.33 feet to a point; thence continue along said Easterly line South 55 degrees 01 minutes 50 seconds East a distance of 108.36 feet to the Northerly line of Granada Avenue, an 80 foot street as presently established; thence North 65 degrees 48 minutes 04 seconds East along said Northerly line a distance of 44.3.63 feet to a point; thence North 24 degrees 59 minutes 14 seconds West a distance of 353.27 feet to a point; thence North 66 degrees 28 minutes 52 seconds East a distance of 212.88 feet to the Westerly line of Halifax Drive as presently occupied and established; thence North 20 degrees 09 minutes 14 seconds West along sold Westerly line a distance of 20.04 feet; thence South 66 degrees 28 minutes 52 seconds West a distance of 102.35 feet; thence North 24 degrees 59 minutes 14 seconds West a distance of 1.30.17 feet to a point In the Southerly line of aforesaid Santa Lucia Plantation; thence South 65 degrees 56 minutes 46 seconds West along sold Southerly line a distance of 47.20 feet; thence North 24 degrees 59 minutes 14 seconds West a distance of 48.05 feet; thence South 65, degrees 56 minutes 46' seconds West' a distance of 65:00 feet; thence South 24 degrees 59 minutes 14 seconds East a distance of 48.05 feet to the South line of Santa Lucia Plantation; thence South 65 degrees 56 minutes 46 seconds West along said South line a distance of 216.80 feet to the Point of Beginning.

SEE SHEET 3 OF 3
FOR REMAINING LEGAL DESCRIPTION

SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS

MAIN OFFICE:
3921 SOUTH NOVA ROAD
PORT ORANGE, FL. 32127
(904) 761-3585

ORMOND BEACH OFFICE:
1414 W. GRANADABLVD., SUITE 1
ORMOND BEACH, FL. 32174
(904) 673-3687

EXHIBIT A-2

DESCRIPTION:

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

Part of Government Lots 2 and 3, Section 14, Township 14 South, Range 32 East, Volusia County, Florida, being more particularly described as follows:

Commence at the Southeast-corner of Lot 16, Santa Lucia Plantation as recorded In Map Book 2, page 160, Public Records of Volusia County, Florida; sold point being also on the Westerly line of Orchard Street, a 20 foot street per sold Santa Lucia Plantation, run thence N6S'S6' 46"E along the southerly line of aforesaid Santa Lucia Plantation, a distance of 20.00 feet to a point of Intersection on the Easterly line of said Orchard Street; thence leaving said Southerly line along the southerly projection of the Easterly line of Orchard Street S24°59'14"E. a distance of 12.00 feet to the point of beginning; thence continue along said Southerly projection S24°59'14"E, a distance of 9.00 feet; thence leaving said Southerly extension S57°37'39"W. a distance of

29S.16 feet to a point on the Easterly right of way line of John Anderson Highway, a 60 foot street as occupied and established; thence along said Easterly right of way N23°35'50"W, a distance of 6.34 feet to a point on a curve concave Westerly; thence Northerly along said curve to the left having a radius of 438.33 feet, a central angle of 3°07'41", an arc length of 23.93 feet to a point; thence leaving the Easterly line of John Anderson highway' N57°37'39"E, a distance of 148.21 feet to a point on a line lying 12.00 feet Southerly and parallel to the South line of Santa Lucia Plantation, also being known as the North line of the Ormond Hotel Property; thence along sold North line N65°56' 46"E, a distance of 145.67 feet to the Point of Beginning, containing 0.168 acres more or less.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

Part of Government Lots 2 and 3, Section 14, Township 14 South, Range 32 East, Volusia County, Florida, being more particularly described as follows:

Beginning at the Southeast corner of Lot 16, Santa Lucia Plantation as recorded In Map Book 2, Page 160, Public Records of Volusia County, Florida, run thence South 24 degrees 59 minutes 14 seconds East along a Southerly projection of the Westerly line of Orchard Street, a 20 foot street per sold Santa Lucia Plantation, a distance 12.00 feet; thence departing sold Westerly line run North 65 degrees 56 minutes 46 seconds East, a distance of 20.00 feet to a Southerly projection of the Easterly right of way line of sold Orchard Street; thence along sold Southerly projection run North 24 degrees 59 minutes 14 seconds West, a distance of 12.00 feet to the Southerly boundary of said Santa Lucia Plantation; thence along said Southerly boundary run South 65 degrees 56 minutes 46 seconds West, a distance of 20.00 feet to the Point of Beginning. Containing 240 square feet more or less.

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PARKING LEVEL PLAN

ALL UNDERGROUND PARKING SPACES MAY BE LIMITED COMMON ELEMENTS
SEE PARAGRAPH 4.2 (a) OF THE DECLARATION OF CONDOMINIUM THE
POOL IS A LIMITED COMMON ELEMENT.

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Page: 4622

Balconies/terrace patios are limited common elements

THE NORTH AND SOUTH RECREATION ROOMS AND THE POOL DEPICTED ON THIS
PAGE ARE LIMITED COMMON ELEMENTS.
GROUND FLOOR PLAN

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Balconies/terrace patios are limited common elements

SECOND FLOOR PLAN

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Balconies/terrace patios are limited common elements

TYPICAL FLOOR PLAN (THIRD THRU SEVENTH FLOORS)

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Balconies/terrace patios are limited common elements

PENTHOUSE FLOOR PLAN

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Balconies/terrace patios are limited common elements

TYPICAL FLOOR PLAN (THIRD THRU SEVENTH FLOORS)

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SOUTH RECREATION ROOM

NORTH RECREATION ROOM

THE ROOMS DEPICTED ON THIS PAGE ARE LIMITED COMMON ELEMENTS.

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LOBBY COMMON ELEMENTS

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UNITS 103 THRU 703

UNITS 101 THRU 701

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UNITS 102 THRU 702 UNITS 120 THRU 720 UNITS 310 thru 710

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UNITS 109 THRU 709 UNITS 113 THRU 713

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UNITS 104 THRU 804 UNITS 118 THRU 818

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UNITS 205 THRU 805 UNITS 217 THRU 817
UNITS 106 THRU 806 UNITS 116 THRU 816
UNITS 107 THRU 807 UNITS 115 THRU 815

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UNITS 108 THRU 808 UNITS 114 THRU 814

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PENTHOUSE #1

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PENTHOUSE #2

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PENTHOUSE #7

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PENTHOUSE #3

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PENTHOUSE #4

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PENTHOUSE #5

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PENTHOUSE #6

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ELEVATION TABULATIONS NORTH, SOUTH, & EAST BUILDINGS		
FLOOR	LOWER BOUNDARY ELEVATION (FLOOR)	UPPER BOUNDARY ELEVATION (CEILING)
<i>GARAGE</i>	1.00	15.83'
1st	16.50'	26.50'
2nd	25.17'	33.17'
3rd	33.86'	41.86'
4th	42.51'	50.51'
5th	51.14'	59.18'
6th	59.85'	67.85'
7th	63.52'	76.52'
8th	11.19'	85.19'
roof	85.86'	

Book:

Page:

**SCHEMATIC
SECTION THRU
BUILDINGS**

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EXHIBIT "B"
TO
THE DECLARATION OF CONDOMINIUM

The undivided share in the common elements appurtenant to the units shall be as set forth below, which percentages are based upon the square footage of each unit in uniform relationship to the square footage of all units.

1 UNIT NUMBERS LAST TWO DIGITS	2 NO. OF UNITS THIS SIZE	3 UNIT SIZE SQUARE FT	4 PERCENTAGE PER UNIT	5 TOTALS
01, 03, 19, 21	28	2675	.0075976	.2127328
02, 20	14	2170	.0061633	.0862862
04, 18	16	2440	.0069302	.1108832
05, 06, 07 15, 16, 17	46	1745	.0049562	.2279852
08, 14	16	1428	.0040559	.0648944
09, 13	14	3050	.0086627	.1212778
10, 11, 12	15	2230	.0063337	.0950055
PH-1	1	5684	.0161435	.0161435
PH-3, PH-4				

PH-5, PH-6	4	3800	.0107929	.0431716
PH-2, PH-7	2	3806	.0108099	.0216198
TOTAL	156	352084		1.0000000

The undivided share of the common elements per unit is set forth in Column 4 above.