

DECLARATION OF CONDOMINIUM

Statement of Background Information

284

Sea Palms, Inc. (a Georgia corporation hereinafter referred to as "Developer") owns certain real property on Saint Simons Island in Glynn County, Georgia, and more fully described in Exhibit A attached hereto and made a part hereof. Developer desires to submit said property to the provisions of the Georgia Apartment Ownership Act, Georgia Law 1963, page 561; Chapter 85-16B of the Code of Georgia, as amended, (hereinafter referred to as the "Act"). Developer has constructed and will construct certain residential buildings on the property containing a total of 23 single family residential units. Each building and each residential unit shall be constructed substantially in accordance with the plans and specifications identified herein.

STATEMENT OF THE DECLARATION

Developer hereby makes the following declaration as to divisions, covenants, restrictions, limitations, conditions and uses to which said real property and the improvements thereon may be put, specifying that this Declaration shall constitute covenants to run with the land, binding upon Developer, its successors and assigns, and on all subsequent owners of any part of said property and improvements, their lessees, grantees, heirs, executors, administrators, devisees, successors or assigns, all in accordance with the provisions of the Act.

GEORGIA, GLYNN COUNTY  
CLERK'S OFFICE Superior Court

I hereby certify the within instrument  
was filed for record at 12:05  
o'clock A.M., on the 12th day  
of December, 1972 and was  
recorded in Book 17-F folio 284  
This 14th day of December, 1972.

/s/ Marvin J. Highsmith  
Clerk of Superior Court

1. Definitions

Except as provided herein, the definitions set forth in the Act shall apply to this Declaration and all other condominium documents. In addition to the definitions contained in the Act, the following definitions shall apply to this Declaration and all other condominium documents covering the property described on Exhibit A hereto.

285

(a) "Board" shall mean the Board of Directors of The Fairway Condominium Association, an association of residence unit owners established pursuant to the Act and this Declaration.

(b) "Building" shall mean the structures containing the clusters of residence units. Each of the three clusters and the units contained therein are identified and located as shown on the Location Plat identified in Exhibit A hereto.

(c) "Common elements" or "common area" shall mean the common areas and facilities as defined in the Act and described in this Declaration, and shall include all of the condominium property which is not included within the boundaries of the residence units.

(d) "Common expenses" shall mean the common expenses as defined in the Act and in this Declaration.

(e) "Condominium documents" shall include this Declaration, the Bylaws of The Fairway Condominium Association, all other exhibits attached hereto, and all other documents, rules and regulations promulgated pursuant to the authority created herein and in the Act, as said documents shall be amended from time to time.

(f) "Condominium property" shall include the land described in Exhibit A and the buildings and all other improvements thereon which are now or hereafter used in connection with the ownership and use of said land and improvements as condominium property.

(g) "Foreclosure" shall include the exercise of a power of sale contained in any deed to secure debt or other instrument conveying security title to a residence unit.

(h) "Lease" shall include all leases, subleases and rental contracts, whether oral or written.

(i) "Majority" shall mean that number of the residence unit owners entitled to cast fifty-one percent or more of the total votes of the Association.

286

(j) "Mechanical equipment space" or "mechanical equipment room" shall mean a space or room intended for use for plumbing, heating, air conditioning, communications, trash collection equipment or other service facilities.

(k) "Mortgage" shall include a deed to secure debt or other instrument conveying security title to a residence unit.

(l) "Mortgagee" shall include any grantee in or holder of a deed to secure debt or other instrument conveying security title to a residence unit.

(m) "Parking space" shall mean an area for vehicular parking located as shown on the plans and described herein.

(n) "Plans" shall mean the plans of the buildings referred to in the Act, which plans are described in Exhibit C hereto and filed in the Office of the Clerk of Superior Court of Glynn County, Georgia. Said plans bear the verifying statement of the architect.

(o) "Residence unit" shall mean an apartment as that term is defined in the Act, and having the boundaries described in this Declaration. Residence unit is sometimes herein called "unit".

(p) "The Fairway Condominium Association" shall mean the association of residence unit owners to be established pursuant to the Act and this Declaration. The Fairway Condominium Association is sometimes herein called the "Association".

## 2. The Buildings.

The buildings are conventional wood frame construction on concrete foundations or treated wood pilings, or both. Exteriors are cedar veneer plywood and non-load bearing tabby stucco veneer. Interiors are gypsum board on wood studs. Floor systems are wood frame. Roof systems are wood truss or wood frame construction with plywood decking and cedar shake shingles. Patios and balconies are enclosed with wood and tabby stucco walls. Each unit has central air conditioning and heating. Decking is treated pine or redwood on treated wood pilings.

3. Residence Units.

A. Unit Information.

286-A

Annexed hereto and made a part hereof as Exhibit B is a list of all residence units in the buildings, their unit designations, approximate area, number of rooms, the parking spaces assigned to each, if any, the area or areas, if any, which comprise limited common elements reserved for the exclusive use of each, the assigned value of each unit and the percentage of interest in the common elements appertaining thereto.

B. Unit Boundaries.

The boundaries of each unit are as described in Exhibit B hereto.

4. Common Elements.

The common elements consist of all of the condominium property which is not included within the boundaries of the residence units, and includes, without limitation, the following:

- (a) The land described in Exhibit A;
- (b) All lakes, all driveway areas, and all parking spaces;
- (c) All central and appurtenant equipment for services

such as electrical power, lights, telephone and gas;

- (d) All sewer pipes;
- (e) All service and maintenance facilities and spaces;
- (f) All walks, shrubbery and trees; and

286-B

(g) All other parts of the condominium property and all apparatus and installations in the buildings or on the condominium property intended for common use or necessary or convenient to the existence, operation, maintenance or safety of the condominium property.

5. Limited Common Elements.

All common elements identified in Exhibit B as being reserved for the exclusive use of a particular residence unit are hereby permanently

reserved for such exclusive use. Each unit owner whose unit has sole access to the assigned patio, decks or balconies shall have an exclusive easement for the use thereof. Each unit owner shall also have an exclusive easement for the use of the parking space or spaces assigned to such unit, if any. The reservations herein set forth and the easements hereby created shall not be enlarged, diminished or varied by any custom, practice or usage that may ensue hereafter, and shall be deemed to be conveyed or transferred with the unit to which it is assigned even though not specifically referred to in the deed or other instrument conveying or transferring title to such unit or creating a security interest in such unit.

287

6. Ownership of Common Elements.

The ownership of each residence unit shall include ownership of the percentage of undivided interest in the common elements as assigned to each unit in Exhibit B. The percentage of interest assigned to the respective units can be changed only with the consent of all unit owners expressed in an amendment to this Declaration as provided herein. Each undivided interest is to be conveyed with the unit to which it is assigned and is included as part of the title to such unit. It cannot be separated from the unit to which it is assigned and cannot be separately conveyed or transferred; it shall be deemed to be conveyed or transferred with the unit to which it is assigned even though not specifically referred to in the deed or other instrument conveying or transferring title to such unit or creating a security interest in such unit. The common elements shall remain undivided and no right shall exist to partition except as provided herein or in the Act.

7. Easements and Rights of Access.

A. Encroachments.

If any portion of the common elements now encroaches upon any residence unit, or if any unit now encroaches upon any other unit or upon any portion of the common elements, as a result of the construction of the buildings, or if any such encroachment shall occur hereafter as a result of settling or shifting of the buildings, a valid easement for the encroachment and for the maintenance of the same so long as the

buildings stand shall exist. In the event a building or any portion thereof shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit, or of any unit upon any other unit or upon any portion of the common elements due to such rebuilding, shall be permitted and valid easements for such encroachments and the maintenance thereof shall exist so long as the buildings shall stand.

288

B. General Utilities.

Each residence unit owner shall have an easement in common with the owners of all other units to use all pipes, ducts, wires, cables, conduits, chutes, utility lines and other common elements serving his unit. Each residence unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, chutes, utility lines and other common elements serving the condominium property. General easements for the benefit of all unit owners are reserved through the condominium property, including residence units, as may be required for installation, maintenance, repair or replacement of pipes, chutes, ducts, wires, cables, conduits, utility lines and other common elements adequately to serve the condominium property.

C. Inspection and Maintenance.

Any member of the Board, Developer's maintenance personnel, or any other person authorized by the Board, shall have reasonable rights of access to all common elements and to each residence unit for the purposes of inspection, maintenance, repair or replacement of any part of the condominium property. Provided, however, that except in an emergency such right of access to a residence unit shall not be exercised without reasonable notice to the unit owner if the unit is then occupied by such owner and not more often than once each month.

8. Use of Condominium Property.

The use of the condominium property shall be in accordance with the following provisions so long as the condominium exists:

A. Residence Units.

Each of the residence units shall be occupied and used for residential purposes. No residence unit may be divided or sub-divided into a smaller unit, nor any portion thereof separately sold or otherwise transferred. Units may be rented for any period of time and may be rented to one or more tenants as a whole or as a sub-divided unit.

B. Common Elements.

The common elements shall be used only for the purposes for which they are intended in providing services and facilities for the use and enjoyment of the occupants of residence units.

C. Nuisances.

No nuisances shall be allowed upon the condominium property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the condominium property by its residents. All parts of the condominium property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor any fire hazard allowed to exist. No unit owner shall make or permit any use of his unit, or make any use of the common elements, which will violate the provisions of the condominium documents or any insurance policy covering the condominium property.

D. Lawful Use.

No immoral, improper, offensive, or unlawful use shall be made of any part of the condominium property, and all applicable laws, zoning ordinances and regulations of all governmental bodies shall be observed. The expense of complying with any such laws, ordinances or regulations which require maintenance, modification or repair of the condominium property shall be borne by the Association unless necessitated by the misuse, misconduct, or neglect of a unit owner or the owner's family, visitors, guests, servants, lessees, and agents, in which case such expense shall be assessed against such owner.

E. Regulations.

Regulations and rules in conformity with this Declaration and further defining the proper use and maintenance of the condominium property may be made and amended from time to time by the Board. Copies of such regulations and rules shall be maintained by the Secretary of the Association and furnished to all unit owners upon request. Such regulations and rules shall be binding upon the owners, their families, visitors, guests, servants, lessees, agents, successors and assigns until and unless they are specifically overruled and canceled in a regular or special meeting of the Association by the affirmative vote of at least fifty-one percent of the total vote of the Association.

F. Rental of Units.

Each unit owner shall have the right to rent his unit at such times and on such terms as he may determine, so long as such rental and the actions of any lessee do not violate the provisions of the condominium documents. At the sole option of Developer, each unit owner, and each owner's family, visitors, guests, servants, lessees and agents, may be permitted to use Developer's recreational facilities on such terms and conditions as developer may impose from time to time. No unit owner shall have any implied rights to use any facilities or property not included as a part of the condominium property.

290

9. Maintenance of Community Interests.

In order to maintain a community of congenial residents and thus protect the value of the condominium property, the transfer of any interest in a residence unit by any owner shall be subject to the following provisions so long as the condominium exists:

A. Sale or Lease.

No residence unit owner may sell a unit or any interest therein without approval of Developer except to a residence unit owner. The approval of Developer shall be obtained in the following manner:

(1) Notice to Developer. A unit owner intending to make a bona fide sale of his unit shall give to Developer written notice of such intention, together with an executed copy of the contract to sell (which shall contain a provision that it is subject to approval by Developer) and such information concerning the proposed buyer as Developer may reasonably require from time to time. In addition to the above, the owner shall deliver his sworn affidavit that such contract correctly and completely states the terms of the agreement to sell, and that no other agreements, oral or written, have been entered into which would alter the terms or provisions of said contract. At the option of the unit owner, the notice of intent to sell may include a demand by the owner that Developer provide a purchaser as provided herein if the proposed purchaser is not approved.



(2) Approval by Developer. Within ten (10) days after receipt of the notice and documents required above, Developer must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the President and Secretary of Developer in recordable form and shall be delivered to the owner.

(3) Disapproval by Developer. If Developer shall disapprove the proposed transaction, and if the unit owner so demanded in the notice of intent to sell, then within twenty (20) days after receipt of such notice and the required documents, Developer shall furnish a purchaser approved by Developer who will purchase and to whom the unit owner must sell on the terms and conditions set forth in the contract previously submitted to Developer.

(4) Failure to Provide Purchaser. If Developer shall disapprove a proposed sale and shall fail to purchase or to provide a purchaser as hereinabove required, then notwithstanding the disapproval such transaction shall be deemed to have been approved and Developer shall furnish a certificate of approval as if such transaction or ownership had been approved. Such certificate shall be in recordable form and executed by the President and Secretary of Developer.

(5) Unauthorized Transactions. Any sale or other transfer which is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved by Developer.

(6) Notices to Developer. All notices to Developer shall be given by certified or registered United States Mail, postage prepaid and return receipt requested, to:

President  
Sea Palms, Inc.  
Frederica Road  
St. Simons Island, Georgia 31522

Developer, or its successors and assigns, may change such mailing address from time to time by filing a notice of change of address in the office of the Clerk of Superior Court of Glynn County, Georgia. A copy of all such notices of change of address shall be promptly furnished to the Secretary of the Association and shall be placed in the records of the Association.

B. Exceptions. The foregoing provisions of this section shall not apply to a transfer to or purchase or sale by a bank, life insurance company or other bona fide mortgagee which acquires its title as the result of owning a bona fide mortgage upon the residence unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successor in title or through foreclosure proceedings. Neither shall such provisions require the approval of a purchaser who acquires title to a unit at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution, sale, foreclosure sale, judicial sale, or tax sale.

10. Insurance and Casualty Losses.

A. Insurance.

The Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all of the improvements on the property (with the exception of improvements and betterments made by the respective unit owners at their expense) against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall also obtain public liability insurance covering all of the condominium property and all damage or injury caused by the negligence of the Association or any of its members or agents, which public liability policy shall be at least \$500,000.00 single, and \$1,000,000.00 for multiple claims, and \$100,000.00 for property damage. Such insurance may be obtained in the form of "homeowner's" policies for all of the unit owners. Premiums for all such insurance shall be common expenses. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the unit owners in such proportions as the Board of Directors shall determine, which determination shall be based on the annual insurance review provided for in this section. Such insurance shall be governed by the following provisions:

- (1) Companies. All policies shall be written with a company licensed to do business in the State of Georgia and holding a rating of "AAA" or better by Best's Insurance Reports.

(2) Beneficiaries. All policies shall be for the benefit of the unit owners and their mortgagees as their interests may appear.

(3) Insurance Certificate. Provision shall be made for the issuance of a certificate of insurance to each owner and his mortgagee, if any, which shall specify the proportionate amount of such insurance attributable to the particular owner's unit.

(4) Policies. The original of all policies and endorsements thereto shall be deposited with the Board of Directors or with the Insurance Trustee appointed by the Board.

(5) Adjustment. Exclusive authority to adjust losses under policies hereafter in force on the property shall be vested in the Board of Directors or its duly authorized agent; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(6) Contribution. In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual owners or their mortgagees.

(7) Additional Insurance. It shall be the individual responsibility of each owner at his own expense to provide, as he sees fit, title insurance on his individual unit, homeowner's liability insurance, theft and other insurance covering improvements, betterments and personal property damage and loss. Each unit owner may obtain additional insurance at his own expense; provided, however, that no owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Board of Directors, on behalf of all of the owners and their mortgagees, may realize under any insurance policy which the Board of Directors may have in force on the condominium property at any particular time. Any owner who obtains an individual insurance policy covering any portion of the condominium property, other than improvements and betterments made by such owner at his expense and personal property belonging to such owner, shall file a copy of each such individual policy with the Board of Directors within 30 days after obtaining such insurance.

(8) Insurance Review. The Board of Directors shall conduct an annual insurance review which shall include a replacement cost appraisal,

without respect to depreciation, of all improvements on the property (with the exception of improvements and betterments made by the respective owners at their expense) by one or more qualified persons at least one of whom should be a qualified building cost estimator.

294

(9) Policy Provisions. The Board of Directors or its duly authorized agent shall be required to make every effort to secure insurance policies that will provide for the following: (i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its duly authorized agent, the owners and their respective servants, agents and guests; (ii) a waiver by the insurer of its right to repair or reconstruct instead of paying cash; (iii) that the policies on the property cannot be cancelled, invalidated or suspended on account of any one or more individual owners; (iv) that the policies on the property cannot be cancelled, invalidated or suspended on account of the conduct of any director, officer, or employee of the Association or its duly authorized agent without a prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its agent, any owner or mortgagee; and (v) that any "other insurance" clause in the master policy exclude individual owner's policies from consideration.

B. No Partition.

There shall be no judicial partition of the property or any part thereof, nor shall the Developer or any person acquiring any interest in the property or any part thereof seek any such judicial partition until the happening of the conditions set forth in this Declaration in the case of damage or destruction or unless the property has been removed from the provisions of the Act.

C. Insurance Trustee.

(1) The Trustee. All insurance policies purchased by and in the name of the Association shall provide that proceeds covering property losses shall be paid jointly to the Association and a Trustee which shall be a Brunswick, Georgia banking institution having trust powers and selected by the Board of Directors, which Trustee is herein referred

to as the Insurance Trustee. Immediately upon the receipt by the Association of such proceeds, the Association shall endorse the instrument by means of which such proceeds are paid and deliver or cause to be delivered such instrument to the Insurance Trustee.

295

(2) Duties of Trustee. The Insurance Trustee shall not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. Nor shall the Insurance Trustee have any obligation to inspect the property to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and delivered to it and to hold such proceeds in trust for the benefit of the owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the Insurance Trustee. An undivided share of such proceeds on account of damage or destruction to the common area shall be reserved for the owners in accordance with their respective percentages of undivided interest in and to the common area. Proceeds on account of damage or destruction to units shall be reserved for the owners of the damaged or destroyed units in proportion to the cost of repairing or reconstructing the damage or destruction suffered by each such owner. In the event that a mortgagee endorsement has been issued as to any particular unit, the share of such unit owner shall be held in trust for such owner and his mortgagee as their interests may appear.

(3) Disbursement of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, all expenses of the Insurance Trustee shall be paid by the Association and the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs shall be retained by the Association or its duly authorized agent and placed in

the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the condominium property.

296

(b) If it is determined as provided herein that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed to such persons as herein provided.

(c) Any and all disbursements of funds, whether such funds consist of insurance proceeds, special assessments, sales proceeds or any combination thereof, to be made by the Insurance Trustee for any purpose whatsoever shall be made pursuant to and in accordance with a certificate of the Association signed by the President or Vice President and attested by the Secretary setting forth whether or not the damage or destruction is to be repaired or reconstructed and whether the damage or destruction was to the common area or one or more units or both. If the damage or destruction is not to be repaired or reconstructed, said certificate shall direct that disbursements be made by the Insurance Trustee as by law provided in accordance with the terms of this section.

(d) If the damage or destruction is to the common area and is to be repaired or reconstructed, said certificate shall also be signed by or on behalf of the mortgagee known by the Insurance Trustee to have the largest percentage interest in or lien upon such common area and may direct that disbursements be made by the Insurance Trustee to those persons and in such amounts as may be specified therein or, in the alternative, said certificate may authorize the Insurance Trustee to make disbursements upon and pursuant to such written authorizations as may be submitted to it by an architect or other person named therein as having been employed by the Association to supervise such repairs or reconstruction.

(e) If the damage or destruction is to one or more units and is to be repaired or reconstructed, said certificate shall also be signed by or on behalf of the mortgagee or mortgagees, if any, known by the Insurance Trustee to have an interest in or lien upon such unit or units and may direct that disbursements be made by the Insurance Trustee to those persons and in such amounts as may be specified therein or, in the alternative, said certificate may authorize the Insurance Trustee to make disbursements upon and pursuant to such written authorizations as may be submitted to it by an architect or other person named therein as having been employed by the Association to supervise such repairs or reconstruction.

297

(f) Except for malfeasance, the Insurance Trustee shall not incur any liability to any owner, mortgagee or other person for any disbursements made by it pursuant to and in accordance with any such certificates or written authorizations.

D. Damage and Destruction.

(1) Loss Estimates. Immediately after the damage or destruction by fire or other casualty to all or any part of the condominium property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty with each unit and the common area having the same vertical and horizontal boundaries as before.

(2) Determination to Repair or Reconstruct. Any such damage or destruction shall be repaired or reconstructed unless at least five (5) units are damaged or destroyed by such fire or other casualty and at least ninety percent (90%) of the total vote of the Association shall decide within 60 days after the casualty, not to repair or reconstruct. If, for any reason, the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost

of repair or reconstruction are not made available to the Association within  
said period of 60 days after the casualty, then such period shall be extended  
until such information shall be made available to the Association; provided,  
however, that said period of time shall in no event exceed 90 days after the  
casualty. In the event that it should be determined by the Association in  
the manner prescribed above that the damage or destruction shall not be  
repaired or reconstructed, then and in that event (i) the property shall  
be deemed to be owned in common by the unit owners; (ii) the undivided  
interest in the property owned in common which shall appertain to each  
unit owner shall be the percentage of undivided interest previously owned  
by such owner in the common area; (iii) any liens affecting any of the  
units shall be deemed to be transferred in accordance with the existing  
priorities to the percentage of undivided interest of the unit owner in  
the property; and (iv) the property shall be subject to an action for  
partition at the suit of any unit owner, in which event the net proceeds  
of sale shall be paid to the Insurance Trustee. Said net proceeds of sale,  
together with the net proceeds of the insurance on the property, shall be  
considered as one fund which, after paying all expenses of the Insurance  
Trustee, shall be divided among all of the unit owners in a percentage equal  
to the percentage of undivided interest owned by each owner in the property,  
after first paying out of the respective share of the unit owners, to the  
extent sufficient for the purpose, all liens on the undivided interest in  
the property owned by each unit owner. Prior to any disbursements to unit  
owners, the holder of a first mortgage on any unit shall receive payment  
in full of the debt secured by such mortgage to the extent that such debt  
does not exceed an amount equal to (i) the insurance proceeds paid with  
respect to the unit covered by such mortgage; plus (ii) any sums which  
might otherwise be due the owner of such unit from the proceeds of the  
sale of the entire property. Disbursements to owners shall be made as  
provided for herein.



E. Repair and Reconstruction.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed the Board of Directors may, on behalf of all unit owners, enter into such contracts or agreements as may be necessary or desirable to accomplish such repair or reconstruction. If the insurance proceeds are not sufficient to defray the cost thereof, the Board of Directors may levy a special assessment against all owners of the units in sufficient amounts to provide funds to pay such excess cost of repair or reconstruction. Such assessments on account of damage or destruction shall be in proportion to each owner's percentage of ownership share in the common area. Any and all sums paid to the Association under and by virtue of those special assessments provided for above to defray the estimated excess cost of repair or reconstruction shall be deposited by the Association with the Insurance Trustee. The proceeds from insurance and assessments, if any, received by the Insurance Trustee, when the damage or destruction is to be repaired or reconstructed, shall be disbursed as provided for herein.

299

11. Minor Repairs.

Notwithstanding the foregoing provisions, in the event of damage by fire or other casualty to any of the condominium property covered by insurance written in the name of the Association and if the insurance proceeds initially offered or paid therefor are less than Two Thousand Dollars (\$2,000.00) and the estimated cost of repairing such damage is less than twice the amount of such proceeds, then the instrument by means of which such proceeds are paid shall be endorsed by the Insurance Trustee and delivered to the Association and the damage shall be repaired. The insurance proceeds shall be used by the Association to defray the cost of such repairs. If the cost of such repairs is less than the amount of such insurance proceeds, the excess shall be retained by the Association or its duly authorized agent and placed in the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the condominium property. If the cost of such repairs exceeds the amount of such insurance proceeds, such

300

excess may be provided either by means of a special assessment levied by the Board of Directors against all owners in proportion to each owner's percentage of ownership in the common area or by means of an appropriation from the reserve maintenance fund or such other fund as may be established for the purpose of providing for the maintenance, repair and replacement of the condominium property as the Board of Directors in the exercise of its sole discretion may determine.

12. Common Expenses.

A. Budget and Assessment.

At the first meeting of the Board, and thereafter within thirty (30) days prior to the date of each annual meeting of the Association the Board shall prepare a budget for the maintenance and operation of the condominium property for the succeeding calendar year, and shall estimate the amount of common expenses to be paid for such year. The amount of common expenses so determined shall be allocated and assessed by the Board among the residence unit owners in proportion to their respective percentages of ownership of the common elements as specified in Exhibit B.

B. Common Expenses.

The common expenses shall include but not be limited to, the following:

- (1) Fees and expenses of managing and administering the Association.
- (2) Expenses of maintaining, preserving, operating, repairing or replacing the condominium property.
- (3) Expenses of utility services for the common property, including water, gas, electricity and sewer.
- (4) The cost of all insurance premiums on all policies of insurance obtained by the Board pursuant to this Declaration.
- (5) All rental and other payments required to be made for any personal property which is hereafter leased or rented for the use and benefit of the Association.
- (6) Amounts determined by the Board to be reasonably required as working capital of the Association, for a general

operation reserve, for a reserve fund for replacements, for deficiencies arising from unpaid assessments, and such amounts as may be required for the purchase or lease by the Board or its designee, corporate or otherwise, on behalf of all residence unit owners, of any unit whose owner has elected to sell or lease such unit or of any unit which is to be sold at a foreclosure or other judicial sale. 300

(7) Special assessments in accordance with this Declaration.

(8) Ad valorem taxes or similar governmental charges assessed against the condominium property. (It is anticipated that each unit owner will return his unit for taxes and that assessments for ad valorem taxes and other similar governmental levies and charges will be made against each unit and will include the percentage of undivided interest in the common elements assigned to each unit. Each unit owner shall be responsible for paying all taxes and similar charges assessed against his unit and the percentage of undivided interest assigned thereto.)

C. Payment and Special Assessments.

The Board shall promptly advise each unit owner in writing of his annual assessment as so determined by the Board, and shall furnish him with a copy of the budget on which such assessment is based, and upon request shall furnish a copy to his mortgagee. The amount so assessed by the Board against each unit owner for each calendar year shall be a lien against the residence unit owned by such owner as of January 1 of such year. If the total of such assessments is determined by the Board to be inadequate for any such year for any reason, including non-payment of any owner's assessment, the Board may, at any time, levy a special assessment which shall be assessed against the owners in proportion to their respective percentage of ownership of the common elements. Any such special assessment shall be a lien against the residence units as of the date specified in the notice of such special assessment. Each owner shall pay such annual assessment to the Association or its duly authorized agent in equal monthly installments on or before the first day of each month, or at such other time and in such other manner as the Board shall designate from time to time.

D. Special Assessments for Capital Improvements.

In addition to the assessments provided for above, the Association may levy special assessments for the purpose of paying, in whole or in part, the cost of construction of any new improvement or reconstruction or replacement of any existing improvement within the common elements, including the cost of any fixtures or personal property relating thereto (excluding personal property located within a unit); provided that such assessment shall have been approved by at least seventy percent (70%) of the total vote of the Association at a meeting duly called in the manner specified in the Bylaws of the Association.

E. Collection.

The Board shall take prompt action to collect any regular or special assessments due from any unit owner which remain unpaid for more than five (5) days from the due date thereof. In the event of default by any unit owner in paying any regular or special assessment the Board may declare all unpaid regular and special assessments for the current year to be immediately due and payable and such residence unit owner shall be obligated to pay interest at the legal rate on such assessments from the date of such default, together with all expenses, including attorneys' fees, incurred by the Board in any proceeding brought to collect such unpaid assessments. The Board shall recover such assessments (together with interest thereon, and the expenses of the proceeding, including attorneys' fees in the amount of 15% of the total amount due, and all court costs) in an action to recover the same brought against such unit owner, or by foreclosure of the lien granted hereunder and in the Act on the unit of such owner.

13. Maintenance, Repair, Alteration or Improvement of Condominium Property.

A. Residence Units.

Each unit owner shall at his own expense keep the interior of his unit and the appliances, equipment and fixtures therein in good order, condition and repair and in a clean and sanitary condition, and shall be responsible for all redecorating and painting necessary to preserve or maintain the good condition and appearance of the interior of his unit. Each unit owner shall also, at his own expense, keep in a clean and

sanitary condition the patio, balcony, deck or other area with respect to which such unit owner has an easement for the exclusive use. Each unit owner shall also be responsible for all damages to any part of his unit, to any other unit or to any of the common elements, which may result from the misuse or misconduct of such unit owner, members of his family, his or their guests, employees, agents, invitees or tenants.

303

B. Exteriors.

No unit owner shall change, modify or alter in any way or manner whatsoever the design or appearance of any surface or facade on the exterior of such owner's residence unit, nor paint or decorate any such exterior surface or facade, nor install, erect or attach to any part of any such exterior surface any sign, fixtures or thing whatsoever, nor make any alterations or additions to any part of the condominium property, unless such owner shall have first obtained the written consent of the Board. If so determined by the Board from time to time, maintenance, repair and redecorating of the exterior of all of the units may be performed by the Association on behalf of all of the unit owners.

C. Common Elements.

All maintenance, repairs, replacements, alterations and improvements to the common elements, whether located inside or outside of a residence unit (unless necessitated by the neglect, negligence, misuse or misconduct of an owner) shall be made by the Association and the cost of same shall be charged to all residence unit owners as a common expense as provided herein.

D. Right of Developer to Maintain and Repair.

Developer owns other property known as Sea Palms Golf Club. In order to protect Developer's interest in such other property, Developer shall have the right to make reasonable repairs to and to reasonably maintain the units and the common area which are subject to this Declaration if the same are not repaired and maintained by the Association or by the unit owners in their original condition, normal wear and tear excepted. Any expenses incurred by Developer in making such repairs or in performing such maintenance shall be paid by the Association upon demand from Developer. However, the Association shall not be liable to Developer for such expenses unless Developer shall have given the Association not less than five days prior written notice of the need for such repairs and maintenance and the Association has failed to promptly take action

to make such repairs or perform such maintenance in a good and workmanlike manner.

14. Association of Residence Unit Owners.

The operation of the condominium shall be by an association which shall be organized and operated pursuant to the Act, this Declaration and the Bylaws attached hereto as Exhibit D. Each residence unit owner shall be a member of the Association. Voting shall be on a percentage basis and the percentage of the vote to which each member shall be entitled shall be the percentage of his ownership in the common elements as stated in Exhibit B. All funds and property acquired by the Association shall be held by the Board in trust for the members in accordance with the provisions of this Declaration and the Act.

Notwithstanding the foregoing, Developer shall be solely responsible, at Developer's option, for the administration of the development and the Association will not begin to function until 30 days after Developer shall have conveyed all of the residence units to the respective purchasers of the same, or on February 1, 1973, whichever is sooner, at which time such fact shall be certified to the Association by Developer and management of the Association delivered to the unit owners. Until such time the duties and powers of the Association, including those of the Board, shall be performed by Developer or a person employed by Developer on behalf of the Association.

15. Notice of Lien or Suit.

A residence unit owner shall give notice to the Board of every lien against his unit (other than for permitted mortgages, taxes and assessments by the Association) within five (5) days after the attaching of the lien, shall give notice to the Board of every suit or other proceeding which may affect the title to his unit, such notice to be given within five (5) days after such owner receives knowledge of such suit or other proceeding, and shall give notice to the Board immediately upon receipt by such owner from a mortgagee holding a mortgage on such unit of any notice, demand or other communications demanding payment of the debt secured by such mortgage, accelerating or proposing to accelerate the maturity of such debt, or in any manner informing such owner of an actual, pending or alleged default by owner under such mortgage.

16. Notices.

Any notice required by the Act or by any of the condominium

documents shall be a written notice delivered to the recipient or mailed to him by United States mail, postage prepaid, at his last known address, if the recipient is an individual, or addressed to the President of the Association, if the recipient is the Association or the Board. All notices delivered by mail shall be deemed to have been given when delivered or as of the second day following the date of the United States Post Office postmark if such notice is mailed by certified or registered United States mail with postage prepaid. The address of residence unit owners shown on the records maintained by the Secretary of the Association shall be the address of such owner for mailing of all notices required from Developer, the Board or the Association, and it shall be the responsibility of each owner to furnish the Secretary written notice of any error in such records or change of address.

305

17. Agent to Receive Service of Process.

All notices, stipulations, writing, or process to be served upon the Association, or upon the Board, shall be deemed to have been given when delivered to the authorized agent of the Association and of the Board or as of the second day following the date of the United States Post Office postmark if such notice is mailed by certified or registered United States mail with postage prepaid. Said agent shall be the then incumbent President of the Association, whose name and residence address shall be a matter of record as part of this paragraph and Declaration. From time to time as new persons serve in the office of President, the Secretary shall certify and record an amendment to this paragraph. Amendment and recording for the purposes of this paragraph shall not require any formal Association action, it being intended to meet at all times the statutory requirement to disclose the name and address of a person to receive notice and service of process. Until the election of the first President and the filing of the first such amendment, Robert L. Brown, whose address is Suite 128, 1600 Tully Circle, N. E., Atlanta, Georgia, shall be considered the authorized agent.

18. Renewal of Covenants and Restrictions.

The provisions of this Declaration and the other condominium documents shall constitute covenants running with the land, binding on the undersigned, its successors and assigns, and on all subsequent owners of any part of the condominium property, together with their grantees, successors, heirs, executors, administrators, devisees, lessees and assigns. By the

acceptance of any deed or other document conveying or transferring any interest in a residence unit, the recipient thereof accepts and ratifies all covenants and restrictions contained herein and in the other condominium documents. Each unit owner, by the acceptance of said deed or other document, covenants and agrees, each with the other, that he will join in the execution of any and all documents which are deemed necessary by the Board to renew or extend said covenants and restrictions from time to time so long as the condominium exists.

306

19. Waiver.

The failure of the Association, Developer or any residence unit owner to enforce any covenant, restriction or other provision of the Act or the condominium documents shall not constitute a waiver of the right to do so thereafter.

20. Amendments by Developer.

Amendments to this Declaration may be made by Developer by recording the same in the office of the Clerk of Superior Court at any time prior to the date on which Developer certifies to the Association that all of the residence units have been conveyed to respective purchasers, or February 1, 1973, whichever is sooner. Any such amendment shall be valid only upon the written consent thereto of not less than one-half of the owners (and their mortgagees, if any) of residences theretofore conveyed by Developer. Any such amendment shall be certified by Developer as having been duly approved and shall be effective when recorded in the Office of the Clerk of the Superior Court.

21. Amendments by Residence Owners.

At any time after Developer releases control of the Association as provided above, this Declaration shall be amended in the following manner:

A. Proposed Amendments.

Any member of the Association may propose an amendment to this



Declaration. Such proposed amendment must be submitted in writing to the Secretary at least twenty (20) days prior to the date of the special or regular Association meeting at which the proposal is to be considered.

307

B. Notice.

A statement of the subject matter of the proposed amendment or amendments shall be included in the notice of any Association meeting at which the proposed amendments are to be considered.

C. Resolution.

A resolution for the adoption of a proposed amendment may be proposed by any member of the Association. The resolution for adoption must be approved by the owners entitled to cast not less than 75% of the total authorized vote of the Association.

D. Absentee Vote.

Members not present at any meeting may vote by proxy as provided in the Bylaws.

E. Proviso.

Provided, however, that no amendment shall change the boundaries of a residence unit nor the share in the common elements appurtenant to it, unless the record owners of all residence units shall approve the amendment in writing. And, provided, further, that so long as Developer owns three or more residence units, no amendment may be made without the written approval of Developer.

F. Execution and Recording.

A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate, shall be executed by the President and Secretary in recordable form. The amendment shall be effective when such certificate and a copy of the amendment are filed for record in the Office of Clerk of Superior Court.

22. Construction.

The provisions of this Declaration and all other condominium documents shall be construed in light of the provisions of the Act and, to

the extent possible, as being consistent with the Act. If any provision, sentence, clause, phrase or word of this Declaration or any other condominium document is judicially held invalid or unenforceable for any reason, such holding shall not be deemed to affect, alter, modify, or impair in any manner any other provision herein or in said documents. Whenever the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders. The captions used herein and in the other condominium documents are solely to aid in the location of the various provisions, and in no way shall such captions be construed to limit or define the subject matter of such provisions.

308

23. Developer Exemptions.

Notwithstanding any other language or provision to the contrary in this Declaration or in any of the other condominium documents, Developer shall be exempt from the covenants, restrictions and provisions contained in paragraphs 8A, 9 and 13B, above, so long as Developer owns one or more residence units (but not later than July 1, 1973). This exemption is granted for the purpose of allowing Developer to complete construction of the buildings, the residence units and other contemplated improvements, and complete the sale of all residence units, without restriction. Neither the unit owners nor residents, the Association nor any use of the condominium property shall interfere with completion of construction of the buildings, the residence units or other improvements, or with the sale of the residence units by Developer. Developer may rent the unsold units or make such use of the unsold units and common elements as may facilitate such completion and sale, including but not limited to maintenance of a sales office, model units, signs, storage areas and construction facilities and construction offices necessary or desirable for the sale of the units covered by this Declaration.

24. Miscellaneous.

A. Incorporation of the Act.

Except as modified by the provisions of this Declaration and the exhibits hereto, the Act is hereby by reference incorporated herein.

B. Multiple Owners.

If any residence unit shall be owned as tenants in common by two or more persons, such persons shall be jointly and severally liable for the common expenses assessed against such unit and for the prompt discharge of each and every obligation or duty imposed on such owners by the condominium documents.

309

C. Enforcement.

Each owner, tenant or occupant of a residence unit shall be bound to comply with the statutory provisions and condominium documents as the same may be in effect from time to time and with the decisions, resolutions, rules and regulations of the Association as the same may be in effect from time to time, and failure to do so shall be grounds for an action to recover damages or to obtain injunctive and other equitable relief, or both.

D. Additional Powers of Board.

In addition to the powers otherwise granted, the Board shall have the power to contract for such services as the Board may deem necessary for the proper and efficient improvement, maintenance and operation of the Association and the condominium property. Also, the Board shall have the power to grant such easements and other rights with respect to the condominium property as may reasonably be necessary or desirable for the use of the condominium property as set forth herein.

E. Additional Rights of Developer.

In addition to the rights otherwise reserved, Developer and Glynn County, Georgia, shall have the right of ingress and egress to and from the condominium property for the purpose of maintaining Developer's adjacent property and for the purpose of constructing, installing, maintaining, repairing or replacing any utility lines required to serve the condominium property or Developer's adjacent property. Provided, however, that such rights may not be exercised in a manner which would adversely affect the use and enjoyment of any of the units.

F. Form of Deed.

Title to each of the units and the percentage of undivided

interest assigned hereto shall be conveyed by deed substantially in the form attached hereto as Exhibit E and made a part hereof. The form of such deed may be changed from time to time without the amendment of this Declaration and provisions may be added to such deed as may be desirable to convey to the grantee or grantees therein the property interest being conveyed.

310

G. Applicable Law.

This Declaration and the other condominium documents shall be construed in accordance with the laws of the State of Georgia.

H. Rights of Mortgagees.

Any bank, life insurance company or other bona fide mortgagee holding a mortgage on any unit may require that the loan documents contain provisions relating to reserve accounts for repairs and replacements, additional insurance, voting rights and such other matters as may be acceptable to the mortgagee and the owner. However, such provisions shall be binding only as between such mortgagee and owner and no such provisions shall violate, restrict or modify the provisions of this Declaration and the other condominium documents.

I. Voting Restrictions.

The provisions of this Declaration and the ByLaws attached as Exhibit D notwithstanding, no proposals under the provisions of Section 10D(2), Section 12D and/or Section 21 of this Declaration may be considered at any regular or special meeting of the Association except in the following manner:

(1) In addition to the notices required to be given to the unit owners, the Association shall give to each mortgagee holding first security title to any unit not less than ten (10) days prior written notice of any meeting at which such proposals are to be considered. Such notice shall set forth the specific proposal on which a vote is to be taken and shall be sent to each such mortgagee at the address filed by each mortgagee with the Secretary of the Association.

(2) Upon receipt of such notice each such mortgagee shall

promptly give written notice to the Association stating the manner in which the vote of the owner of the unit covered by such mortgagee's mortgage shall be cast. Such notice shall be binding on the unit owner and on the Association and such owner shall be deemed to have cast the vote in the manner specified by the mortgagee.

311

(3) The Association may rely on the last address filed by a mortgagee and if a mortgagee has not filed an address or has revoked the filing of such address without filing a new address, it shall be conclusively presumed that such mortgagee does not wish to receive notice of such meeting and the owner of the unit covered by such mortgagee's mortgage shall be entitled to vote on the proposals in such manner as such owner may determine. Likewise, if, on or before the day preceeding the date of the meeting, any mortgagee fails to deliver to the Association the aforesaid notice specifying the manner in which the vote is to be cast, the unit owner shall be entitled to vote on the proposals in such manner as such owner may determine.

(4) All notices required to be given to a mortgagee hereunder shall be given by registered or certified United States mail, postage prepaid with return receipt requested. Any such notice shall be deemed to have been given as of the date of the United States Post Office postmark. All notices required to be given to the Association hereunder, shall be given as set forth in Section 17 above.

(5) The Secretary of the Association shall upon request from time to time execute and deliver a certification of compliance by the Association with the requirements of the foregoing provisions. Any amendment to this Declaration which is recorded with such certification in accordance with the provisions of Section 21F, above, shall be conclusively presumed to have been adopted in compliance with the requirements of the foregoing provisions.

IN WITNESS WHEREOF, the duly authorized officers of the  
Developer have executed this Declaration this 1st day of November, 1972. 312

Signed, Sealed and Delivered  
in the presence of:

Linda C. Langford  
Witness

Maxwell Cole  
Notary Public

Notary Public, Georgia State at Large  
My Commission Expires June 28, 1974

SEA PALMS, INC.

By: [Signature] (Robert R. King)  
President

Attest: [Signature] (Robert L. Brown)  
Assistant Secretary

EXHIBIT A TO  
DECLARATION OF CONDOMINIUM

Description of Property

313

All that tract or parcel of land lying and being on Saint Simons Island in Glynn County, Georgia, and being more particularly described as follows:

Beginning at a point on the southwestern right-of-way of Windward Drive, which has a 50-foot right-of-way, which point is located 636.36 feet southeasterly, as measured along said right-of-way, from an iron pin at the intersection of said southwestern right-of-way with the southern right-of-way of Alder Circle; thence southeasterly along said southwestern right-of-way of Windward Drive, and following the curvature thereof, 849.81 feet to an iron pin; thence North 85°22' West 100.0 feet to an iron pin; thence North 48°35' West 710.0 feet to an iron pin; thence North 46°42' East 103.9 feet to an iron pin; thence North 19°44' East 98.1 feet to an iron pin; thence North 58°10' East 25.0 feet to the POINT OF BEGINNING.

The foregoing courses and distances are taken from a Location Plat by Construction Engineering Associates, dated October 25, 1972, which Plat is incorporated herein by reference.

**EXHIBIT "B" TO DECLARATION OF CONDOMINIUM**

<u>BUD/UNIT IDENTIFICATION</u>	<u>UNIT DESCRIPTION</u>	<u>APPROXIMATE AREA IN SQ. FT.</u>	<u>NUMBER OF ROOMS (1)</u>	<u>LIMITED COMMON ELEMENTS</u>	<u>ASSIGNED VALUE (2)</u>	<u>PERCENTAGE OF COMMON ELEMENTS (3)</u>
A-1 401	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
A-2 402	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
A-3 403	1 BDR. Flat	840	3	3D	37,000	2.3
A-4 404	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
A-5 405	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
B-1 406	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
B-2 408	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
B-3 407	1 BDR. Flat	840	3	3D	37,000	2.3
B-4 411	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
B-5 410	2 BDR. Townhouse	1533	5	1 B 2D	47,900	4.3
B-6 409	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
B-7 412	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
B-8 411	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
B-9 413	2 BDR. Townhouse	1533	5	1 B 2D	47,900	4.3
B-10 415	2 BDR. Flat	1049	4	1 B 1D 4D	43,000	2.9
C-1 416	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
C-2 418	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
C-3 421	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
C-4 420	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
C-5 422	2 BDR. Townhouse	1533	5	1 B 1D	47,900	4.3
C-6 423	3 BDR. Townhouse	1921	6	1 B 2D	60,000	5.4
C-7 417	2 BDR. Flat	1049	4	4D	43,000	2.9
C-8 419	1 BDR. Flat	840	3	3D	37,000	2.3
						<u>100.0</u>

**Notes:**

- (1) Exclusive of baths, halls and closets.
- (2) The assigned value of all units is subject to change without notice.
- (3) The total percentage of undivided ownership in the common elements is 100, but the assigned percentage is not mathematically equal to the proportionate assigned value of undivided ownership in the common elements square footage. No opinion, appraisal, sale price, assigned value or size of a unit will require any change in the assigned percentage of undivided ownership in the common elements. Such percentage can only be changed by amendment to the Declaration as provided in the Declaration.

**Unit Boundaries:**

The boundaries of each unit are as shown on the Plans and the Location Plat prepared by Construction Engineering Associates, dated October 25, 1972. The units have no upper horizontal boundaries. The lower horizontal boundary of each unit is the lower exterior of the floor joists. The vertical boundaries are the outer surfaces of all exterior walls and the center line of all party walls. Each unit includes the space contained within the boundaries thereof. All attachments to the exterior of a unit or which protrude beyond the vertical boundaries are included as a part of the unit and are reserved as part of the unit as if located within the boundaries of the unit, including but not limited to heating and air conditioning equipment.



PLAT DRAWER 12, PLAT # 440  
ENGINEER'S CERTIFICATE

THE UNDERSIGNED REGISTERED PROFESSIONAL ENGINEER  
HEREBY CERTIFIES THAT THIS LOCATION PLAT FULLY AND  
ACCURATELY DEPICTS THE LAYOUT, LOCATIONS, NUMBERS/  
LETTER IDENTIFICATIONS, AND DIMENSIONS OF THE NO. 1  
FAIRWAY CONDOMINIUMS.

*Christopher Gibbons*  
CHRISTOPHER GIBBONS  
REGISTERED PROFESSIONAL ENGINEER  
No. 1442

STATE OF GEORGIA, COUNTY OF GLYNN. IT IS HEREBY CLARIFIED  
THAT I, D. C. MCCASKILL, ENGINEER FOR GLYNN COUNTY, GEORGIA,  
HAVE EXAMINED THIS MAP AND, HAVING FOUND THE SAME TO  
COMPLY WITH THE REQUIREMENTS OF THE ORDINANCE TO  
REGULATE THE MAKING OF SURVEYS AND THE FILING FOR RECORD  
OF PLATS AND SURVEYS WITHIN THE COUNTY OF GLYNN  
SAID PLAT IS HEREBY APPROVED THIS THE 14 DAY OF  
October, 1972.

*D. C. McCaskill*  
D. C. MCCASKILL, ENGINEER

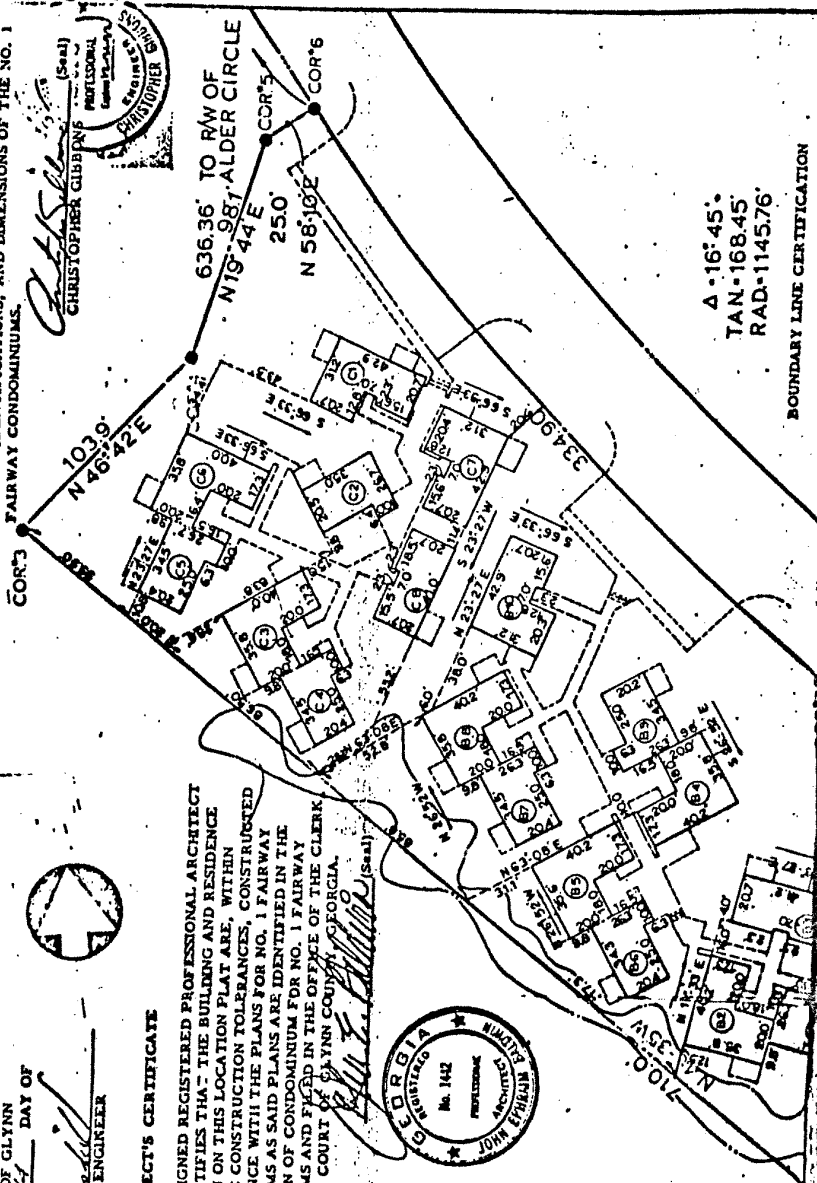
ARCHITECT'S CERTIFICATE

THE UNDERSIGNED REGISTERED PROFESSIONAL ARCHITECT  
HEREBY CERTIFIES THAT THE BUILDING AND RESIDENCE  
UNITS SHOWN ON THIS LOCATION PLAT ARE, WITHIN  
REASONABLE CONSTRUCTION TOLERANCES, CONSTRUCTED  
IN ACCORDANCE WITH THE PLANS FOR NO. 1 FAIRWAY  
CONDOMINIUMS AS SAID PLANS ARE IDENTIFIED IN THE  
DECLARATION OF CONDOMINIUM FOR NO. 1 FAIRWAY  
CONDOMINIUMS AND FILED IN THE OFFICE OF THE CLERK  
OF SUPERIOR COURT OF GLYNN COUNTY, GEORGIA.

*William E. Williams*  
WILLIAM E. WILLIAMS (Seal)  
REGISTERED PROFESSIONAL ARCHITECT  
No. 1442

BLDG./UNIT TYPE

- A-1 3-BDR TH
- A-2 2-# TH
- A-3 1-# FLAT
- A-4 2-# TH
- A-5 3-# TH
- B-1 2-BDR TH
- B-2 3-# TH
- B-3 1-# FLAT
- B-4 3-# TH
- B-5 3-# TH
- B-6 2-# TH
- B-7 2-# TH
- B-8 3-# TH
- B-9 2-# TH
- B-10 2-# FLAT
- C-1 3-BDR TH
- C-2 2-# TH
- C-3 3-# TH
- C-4 2-# TH
- C-5 2-# TH
- C-6 3-# TH
- C-7 2-# TH
- C-8 1-# FLAT



A = 16°45'  
TAN = 168.45'  
RAD = 1145.76'  
BOUNDARY LINE CERTIFICATION

DESCRIPTION OF THE BOUNDARY LINE  
AND HAS BEEN PREPARED IN CONFORMITY  
WITH THE MINIMUM STANDARDS AND  
REQUIREMENTS OF LAW.

*Milton Lemon*  
MILTON ROBERT LEMON,  
REG. SURVEYOR 1439

GEORGIA GUNN COUNTY

CLERK'S OFFICE Superior Court

I hereby certify the within instrument

was filed for record at 11:50

o'clock A. M. on the 8th day

of December, 1972 and was

recorded in Deedbook 12, Plat 440

This 8th day of Dec. 1972

*Michael H. ...*

of Clerk Superior Court.



LOCATION PLAT

NO. 1 FAIRWAY CONDOMINIUMS

SEA PALMS INC.

ST. SIMONS ISLAND, GEORGIA

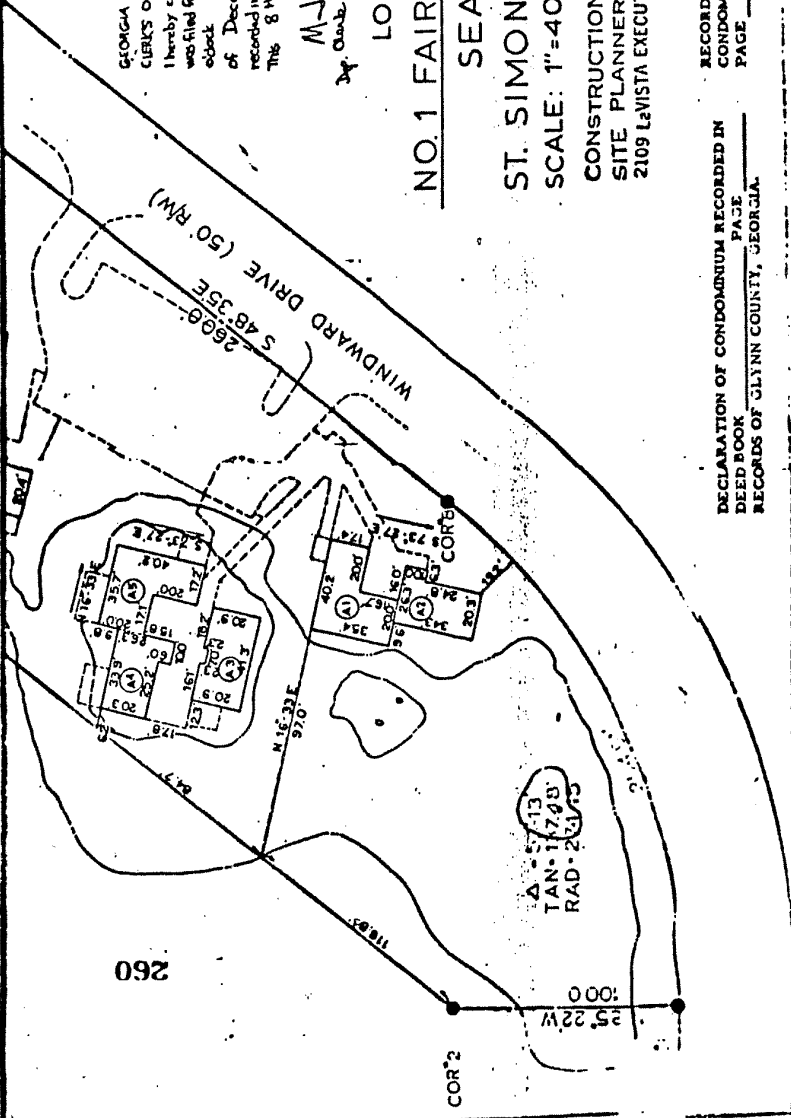
SCALE: 1"=40' OCTOBER 25, 1972

CONSTRUCTION ENGINEERING ASSOCIATES

SITE PLANNERS

2109 LAVISTA EXECUTIVE PARK

TUCKER, GEORGIA



DECLARATION OF CONDOMINIUM RECORDED IN  
DEED BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
RECORDS OF GLYNN COUNTY, GEORGIA.

RECORDED IN GLYNN COUNTY, GEORGIA  
CONDOMINIUM PLAT BOOK \_\_\_\_\_  
PAGE \_\_\_\_\_

EXHIBIT C TO  
DECLARATION OF CONDOMINIUM

Identification of Plans

Plans by Baldwin & Cheshire, identified as follows:

315

<u>Title</u>	<u>Sheet No.</u>	<u>Date</u>
Site Plan	AD - 1	July 27, 1972
First Floor Plan	A - 2	January 12, 1972
Second Floor Plan	A - 3	January 12, 1972
Elevations	A - 4	January 12, 1972
Elevations	A - 5	January 12, 1972
Elevations	A - 6	January 12, 1972
Interior Elevations	A - 7	January 12, 1972
Wall Sections	A - 8	January 12, 1972
Sections - Wood Details	A - 9	January 12, 1972
Schedules - Section - Miscellaneous Details	A - 10	January 12, 1972
Section	A - 11	January 12, 1972
First Floor Electrical Plan	E - 1	January 12, 1972
Second Floor Electrical Plan	E - 2	January 12, 1972
Mechanical Plan	M - 1	January 12, 1972
Mechanical Plan	M - 2	January 12, 1972
Mechanical Plan	M - 3	January 12, 1972
Foundation Plan	S - 1	January 12, 1972
First Floor Framing Plan	S - 2	January 12, 1972
Second Floor Framing Plan	S - 3	January 12, 1972
Roof Framing Plan	S - 4	January 12, 1972
Floor Plan	SD - 1	March 16, 1972
Exterior Elevations	SD - 2	March 16, 1972
Schedules - Interior Elevations	SD - 3	March 16, 1972
Foundation and Framing Plans	SD - 4	March 16, 1972
Electrical and Air Conditioning Plans	SD - 5	March 16, 1972
Partial Deck Layout Plan	SD - 6	July 19, 1972
Deck, Framing and Pier Layout	SD - 7	August 31, 1972

Exhibit D to  
Declaration of Condominium

Bylaws of The Fairway Condominium Association

376

1. Authority.

These Bylaws are established pursuant to the Georgia Apartment Ownership Act, Georgia Laws of 1963, page 561, Chapter 85-16B of the Code of Georgia, as amended, (hereinafter referred to as the "Act") and the Declaration of Condominium (hereinafter referred to as the "Declaration") by Sea Palms, Inc. (hereinafter referred to as "Developer"). The Act and the Declaration are incorporated herein by reference.

2. Name.

The name of this Association shall be "The Fairway Condominium Association", an association of residence unit owners.

3. Powers.

The Association shall have all of the powers and duties set forth in the Act, except as modified by the Declaration and these Bylaws, and all other powers and duties reasonably necessary to operate and maintain the condominium property on the principles and standards set forth in the Declaration, these Bylaws and the other condominium documents.

4. Membership.

The membership of the Association shall consist of all of the record owners of the residence units. Each unit owner shall automatically become a member of the Association upon acquisition of title to a unit, and the membership of the prior owner shall be automatically terminated upon transfer of his entire title. However, execution of a mortgage shall not entitle the mortgagee to membership and shall not terminate the membership of the owner executing such mortgage.

5. Applicability.

These Bylaws shall apply to the condominium property described in Exhibit A to the Declaration, and shall be binding on all residence unit owners, their lessees, grantees, heirs, executors,

administrators, devisees, successors and assigns, and on all other persons occupying or using said property in any manner. The ownership, rental or occupancy of any residence unit shall constitute acceptance and ratification of these Bylaws and all other condominium documents.

317

6. Board of Directors.

A. Number.

The affairs of the Association shall be governed by a Board of Directors (hereinafter called the "Board") composed of five persons, all of whom must at all times during their service as directors be owners of residence units, or officers or employees of a corporation owning one or more residence units, or officers or employees of Developer.

B. Powers.

The Board shall have all the powers and the duties necessary to administer the affairs of the Association and to do all things on behalf of the Association as are not by law nor by the Declaration directed to be done otherwise.

C. Management.

The Board may employ for the Association a management agent or agents and such personnel as the Board may deem necessary under such terms and compensation and with such duties as the Board may authorize.

D. Election and Term of Office.

At the first meeting of the Association three Directors shall be elected for a term of two years, and two Directors for a term of one year. At the expiration of the initial term of office of each Director, his successor shall be elected to serve a term of two years. A Director shall hold office until his successor has been elected and takes office.

E. Vacancies.

Vacancies in the Board caused by any reason other than the removal of a Director by a vote of the Association shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall hold office until a successor is elected at the next annual meeting of the Association, unless sooner removed.

F. Removal of Directors.

At any regular or special meeting of the Association any of the Directors may be removed with or without cause by a vote of eighty (80) percent of the total authorized vote of the Association members, and a successor may then and there be elected by majority vote to fill the vacancy thus created. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting prior to the vote on his removal.

G. Organization Meeting.

The first meeting of the first Board shall be held within ten days after election at such time and place as shall be determined by the Directors.

H. Regular Meetings.

Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. At least two regular meetings shall be held during each calendar year. Written notice of the time and place of regular meetings of the Board shall be given to each Director at least three days prior to the day named for such meeting.

I. Special Meetings.

Special meetings of the Board may be called by the Chairman on five days written notice to each Director, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the Chairman or Secretary in like manner and with like notice at the written request of at least three Directors.

J. Waiver of Notice.

Any Director may waive notice of a meeting by written waiver executed before, at, or after the meeting. Attendance by a Director at any meeting of the Board shall be a waiver of notice of such meeting.

K. Board of Directors Quorum.

At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of

the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. If at any meeting of the Board there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. Any business which might have been transacted at the meeting as originally called may be transacted at any adjourned meeting at which a quorum is present, without further notice.

319

7. Association Officers.

A. Number and Election.

There shall be elected by and from the Board an Association President (who shall also be Chairman of the Board), a Vice President, a Secretary, and a Treasurer. The Secretary and Treasurer may be the same person. The Directors may appoint such other officers from the Association membership as in their judgment may be needed.

B. Duties.

The officers shall perform all the duties incident to their respective offices. The President shall be the chief executive officer with general powers as such, including the power to appoint committees from among the Association members. The Vice President shall assume the duties of the President upon the request or absence of the President. The Secretary shall keep and maintain minutes of meetings and other records of the Association, and shall perform such other duties as the Board may direct. The Treasurer shall be responsible for Association funds, the keeping of full and accurate fiscal records and accounts and shall perform such other duties as the Board may direct.

C. Term.

The officers shall be elected annually and shall hold office at the pleasure of the Board.

8. Indemnification and Compensation of Officers and Directors.

A. Indemnification.

Each director and each officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in

connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director, or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred. However, no indemnification shall be paid to a director or officer who is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties.

320

B. Compensation.

No director or officer shall receive any fee or compensation for services performed by him unless such fee or compensation is first fixed by a resolution adopted by a majority vote of the residence unit owners.

9. Association Meetings.

A. Place of Meeting.

Meetings of the Association shall be held on Saint Simons Island, Georgia, at such suitable place convenient to the members as may be designated by the Board.

B. Annual Meeting.

The first meeting of the Association shall be held within thirty days after all of the units have been sold by Developer, or on or before February 1, 1973, whichever is sooner, at the time, date and place designated by Developer. Thereafter, the annual meeting of the Association shall be held on the first Wednesday in February of each calendar year, unless such day is a public holiday, in which event the meeting shall be held on the next succeeding business day.

C. Special Meetings.

The President may call a special meeting of the Association at any time and he shall be required to call a special meeting of the Association if directed by resolution of the Board or upon a petition signed by a majority of the Association members and presented to the Secretary. The call of a special meeting shall be by notice stating the time, the place, the purpose and the order of business of such special meeting. Only the business stated in the notice may be transacted at a special meeting.



D. Notice of Meetings.

It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each residence unit owner at least ten (10) but not more than twenty (20) days prior to such meeting. The mailing of such notice shall be considered notice served. Any member may waive notice of a meeting by written waiver executed before, at, or after the meeting. Any member attending a regular or special meeting shall be deemed to have waived notice of such meeting.

321

E. Order of Business.

The order of business at all annual meetings shall be as follows:

- a. Roll call.
- b. Proof of notice of meeting.
- c. Reading of minutes of preceding meeting.
- d. Reports of officers.
- e. Reports of committees, if any.
- f. Election of inspectors of election.
- g. Election of directors.
- h. Unfinished business.
- i. New business.

F. Quorum.

At all meetings, regular or special, the presence of members entitled to cast 51% or more of the total authorized votes shall constitute a quorum.

G. Rules of Order.

Except as may be otherwise provided herein, the parliamentary conduct of all meetings of the Board of Directors or of the Association shall be governed by Roberts Rules of Order.

10. Voting by Members of the Association.

A. Percentage of Vote.

Voting shall be on a percentage basis and the percentage of the vote to which each member is entitled is the percentage of ownership

of the common elements assigned to the residence unit or units owned by such member. Said percentage shall not be divisible and the vote thereof may not be cast in part.

322

B. Designation of Voting Representative.

If a residence unit is owned by one person his right to vote shall be established by the record title to his unit. If a residence unit is owned by more than one person, or is under lease, the person entitled to cast the vote for the unit shall be designated by a certificate signed by all of the record owners of the unit and filed with the Secretary. If a unit is owned by a corporation, the person entitled to cast the vote for the unit shall be designated by a certificate of appointment signed by the president or vice-president of the corporation. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until written notice of a change in the ownership of the unit concerned is delivered to the Secretary of the Association. Whenever the decision of a residence unit owner is desired upon any matter, whether or not the subject of a vote at an Association meeting, such decision shall be expressed by the person who would be entitled to cast the vote of such unit owner in an Association meeting.

C. Proxy.

Votes may be cast in person or by proxy. Proxies must be filed with the Secretary at or before the appointed time of each meeting.

11. Amendment.

These Bylaws may be amended only at a duly constituted annual or special meeting of the Association, the notice of which states that consideration of such proposed amendment is a purpose of the meeting. These Bylaws may be amended only by the affirmative vote of members entitled to cast 51% or more of the total vote of the Association.

EXHIBIT E TO  
DECLARATION OF CONDOMINIUM

CONDOMINIUM WARRANTY DEED

No. 1 Fairway Condominiums  
Building  
Unit Number

323

STATE OF GEORGIA

COUNTY OF GLYNN

THIS INDENTURE, Made the day of \_\_\_\_\_, 1972, between Sea Palms, Inc., a Georgia corporation, as party of the first part, hereinafter called Grantor, and

as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

All that tract or parcel of land lying and being on St. Simons Island in Glynn County, Georgia, and being Unit Number \_\_\_\_\_ in Building \_\_\_\_\_ of No. 1 Fairway Condominiums as shown on that certain Location Plat by Construction Engineering Associates, dated October 25, 1972, recorded in Condominium Plat Book \_\_\_\_\_, page \_\_\_\_\_, records of Clerk of Superior Court in Glynn County, Georgia. The Unit is a part of the property described in Exhibit A to the Declaration of Condominium dated November 1, 1972, recorded in Deed Book \_\_\_\_\_, page \_\_\_\_\_, aforesaid records, as amended by amendments recorded in said records.

The Unit includes an undivided \_\_\_\_\_ percentage interest in the common elements of No. 1 Fairway Condominiums (as such common elements are defined in said Declaration), together with all of the right, title and interest of Grantor in said Unit and the appurtenances thereto under said Declaration.

The above described Location Plat, the Declaration of Condominium, and all recorded amendments thereto are incorporated herein by reference and made a part hereof.

This conveyance is made subject to the terms, provisions and restrictions contained in the Georgia Apartment Ownership Act, Georgia Laws 1963, page 561, as amended, and in said Declaration, as amended. By the acceptance of this Deed, Grantee acknowledges receipt of a copy of said Declaration and covenants and agrees to comply with all of the terms, provisions and restrictions set forth therein, as amended from time to time.

TO HAVE AND TO HOLD the Unit with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the Unit unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the duly authorized officers of Grantor have signed, sealed and delivered this Deed the day and year above written.

Signed, Sealed and  
Delivered in the  
presence of:

SEA PALMS, INC.

By: \_\_\_\_\_

\_\_\_\_\_  
Witness

Attest: \_\_\_\_\_ (Corporate Seal)  
Assistant Secretary

\_\_\_\_\_  
Notary Public

AMENDMENT NO. 1  
TO DECLARATION OF CONDOMINIUMS  
#1 FAIRWAY CONDOMINIUMS  
Sea Palms, Inc.  
St. Simons Island, Georgia

700

STATE OF GEORGIA  
COUNTY OF GLYNN

REFERENCE: Declaration of Condominium  
by Sea Palms, Inc. dated November 1,  
1972, recorded in Deed Book 17-F, page 284  
records of Glynn County, Georgia.

This Amendment is made pursuant to the provisions of the  
referenced Declarations for the purpose of filing for record  
the Certificate of a registered architect, said Certificate  
being attached hereto as Exhibit "A" and by reference, made  
a part hereof.

This Amendment to the Declaration of Condominiums is  
made by Sea Palms, Inc., a Georgia corporation, for itself,  
its Grantees, successors and assigns.

IN WITNESS WHEREOF, the duly authorized officers of  
Sea Palms, Inc. have hereunto set their hands and the corporate  
seal, this the 20th day of December, 1972.

SEA PALMS, INC.

BY: [Signature]  
President

ATTEST: [Signature] (Corporate Seal)  
Assistant Secretary

Signed, sealed and delivered

in the presence of:

[Signature]  
Witness

[Signature]  
Notary Public

Notary Public, Glynn County, Georgia  
My Commission Expires August 31, 1973

GEORGIA, GLYNN COUNTY  
CLERK'S OFFICE, Superior Court  
I hereby certify the within instrument was filed for record  
at 9:45 o'clock A.M., on the 21st day of December, 1972 and  
was recorded in Book 17-F, folio 700.  
This 21st day of December, 1972.

/s/ Karvin J. Highsmith

ARCHITECTS CERTIFICATE  
#1 FAIRWAY CONDOMINIUM  
Sea Palms, Inc.  
St. Simons Island, Georgia

701

STATE OF GEORGIA  
COUNTY OF GLYNN

REFERENCE: #1 Declaration of Condominiums by  
Sea Palms, Inc., dated November 1, 1972, recorded  
in Deed Book 17-F, page 284, records of Glynn  
County, Georgia.

REFERENCE: #2 Location Plat for #1 Fairway  
Condominiums by Construction Engineering Associates  
dated October 25, 1972, recorded in Plat Drawer  
12, page 440, records of Glynn County, Georgia.

Before me came in person John E. Baldwin, who, having  
been duly sworn on oath, says as follows:

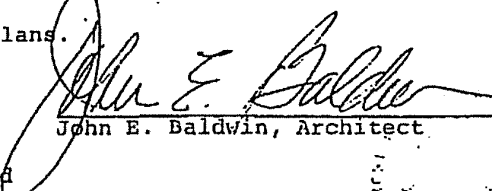
That he is a registered architect licensed to practice  
in and by the State of Georgia under registration number 1442;  
and

That the Plans identified in Exhibit "C" to the referenced  
Declaration of Condominiums are the Plans for the #1 Fairway  
Condominiums, which condominium Units are identified alphabet-  
ically and numerically on the referenced Location Plat; and

That a copy of said Plans have been filed in the Office  
of the Clerk of Superior Court of Glynn County, Georgia; and

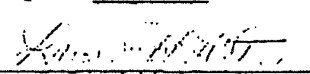
That said Plans fully and accurately depict the layout,  
location, apartment numbers and dimensions of the apartments  
as built; and

That the 23 Units shown on the referenced Location Plat  
are, within reasonable construction tolerances, constructed in  
accordance with said Plans.

  
John E. Baldwin, Architect

(SEAL)

Sworn to and subscribed  
before me this the  
day of \_\_\_\_\_, 1972.

  
Notary Public

Notary Public, Glynn County, Georgia  
My Commission Expires August 13, 1974.

Exhibit "A"

EXHIBIT C TO  
DECLARATION OF CONDOMINIUM

Identification of Plans

Plans by Baldwin & Cheshire, identified as follows:

315

<u>Title</u>	<u>Sheet No.</u>	<u>Date</u>
Site Plan	AD - 1	July 27, 1972
First Floor Plan	A - 2	January 12, 1972
Second Floor Plan	A - 3	January 12, 1972
Elevations	A - 4	January 12, 1972
Elevations	A - 5	January 12, 1972
Elevations	A - 6	January 12, 1972
Interior Elevations	A - 7	January 12, 1972
Wall Sections	A - 8	January 12, 1972
Sections - Wood Details	A - 9	January 12, 1972
Schedules - Section - Miscellaneous Details	A - 10	January 12, 1972
Section	A - 11	January 12, 1972
First Floor Electrical Plan	E - 1	January 12, 1972
Second Floor Electrical Plan	E - 2	January 12, 1972
Mechanical Plan	M - 1	January 12, 1972
Mechanical Plan	M - 2	January 12, 1972
Mechanical Plan	M - 3	January 12, 1972
Foundation Plan	S - 1	January 12, 1972
First Floor Framing Plan	S - 2	January 12, 1972
Second Floor Framing Plan	S - 3	January 12, 1972
Roof Framing Plan	S - 4	January 12, 1972
Floor Plan	SD - 1	March 16, 1972
Exterior Elevations	SD - 2	March 16, 1972
Schedules - Interior Elevations	SD - 3	March 16, 1972
Foundation and Framing Plans	SD - 4	March 16, 1972
Electrical and Air Conditioning Plans	SD - 5	March 16, 1972
Partial Deck Layout Plan	SD - 6	July 19, 1972
Deck, Framing and Pier Layout	SD - 7	August 31, 1972