

Filed For Record 5/4/92 at 3:39PM Stella M. Lopez, Recorder

**Condominium Declaration
for
Gold Dust Condominium**

**Article 1
Submission; Defined Terms**

Section 1.1 Submission of Property. The Baxley Corporation, a New Mexico corporation, owner of the real property lying and being situate at Lot 2, Angel Fire Village Unit 2, Block F, Colfax County, New Mexico, submits the real property, together with all easements, rights and appurtenances thereto ("Property") to the provisions of New Mexico Laws 1982, Chapter 27 (Chapter 47, Articles 7A, 7B, 7C and 7D, N.M.S.A. 1978), known as the New Mexico Condominium Act ("Condominium Act" or "the Act"), and creates a Condominium with respect to the Property to be known as Gold Dust Condominium, ("Condominium").

Section 1.2 Defined Terms.

- **Association:** Gold Dust Condominium Association, a New Mexico non-profit corporation.
- **Board of Directors:** the Board of Directors of the Association.
- **Bylaws:** Bylaws of the Association filed with the New Mexico State Corporation Commission.
- **Eligible Mortgagee:** the holder of a first Security Interest in a Unit, when the holder has notified the Association, in writing, of its name and address and that it holds a first Security Interest in a Unit. The notice must include the Unit number on which it has a Security Interest.
- **Reserved Common Element:** a portion of the Common Elements designated by the Board of Directors for the exclusive use of one or more but fewer than all the Units, pursuant to Section 47-7C-2, N.M.S.A. 1978.
- **Terms not otherwise defined herein or in the Plat, Plan, Exhibits, or Bylaws, or in any amendment hereto, shall have the meanings specified in Section 47-7A-3 of the Condominium Act.**

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Article 2
Building on the Property; Unit Boundaries

Section 2.1 The Building.

The location, dimensions and area of the building on the Property are depicted on Exhibit "A" ("Plat and Plan").

Section 2.2 Units.

The location of Units and any Limited Common Elements allocated exclusively to each Unit are shown on the "Plat and Plan" attached as Exhibit "A" hereto. Attached as Exhibit "B" hereto is a list of all Units, their identifying letters, location, size (all as shown more fully on the Plat and Plan), and the undivided percentage interest of each Unit Owner in the Common Elements and Common Expenses ("Percentage Interest") appurtenant to each Unit determined on the basis of size. The "size" of each Unit is the total number of interior square feet determined by reference to the dimensions shown on the Plat and Plan. The percentage ownership interest in the Common Elements and liability for common expenses allocated to each Unit is the ratio of the size of the Unit to the size of all Units in the Condominium, expressed as a decimal fraction. Each Unit is allotted one vote in the Association. The number of Units created hereby is twenty-one (21).

Section 2.3 Unit Boundaries.

Each Unit consists of the space within the walls, floors and ceilings of that Unit.

Section 2.4 Maintenance Responsibilities.

Each Unit Owner shall be responsible for the maintenance and repair of his Unit, and shall maintain the Limited Common Elements appurtenant thereto in a neat and orderly condition. Should the Board of Directors determine that any Unit Owner has neglected properly to maintain or to repair any Limited Common Element appurtenant to his Unit, the Board may provide exterior maintenance upon such Limited Common Element as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, retaining walls and other exterior improvements.

Section 2.5 Common Expenses Attributable to Fewer than all Units.

Any Common Expense associated with the maintenance, repair or replacement of components attached to, planted on, or a part of any Limited Common Element shall be assessed against the Unit or Units to which the Limited Common Element is assigned. If any such Limited Common Element is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element shall be assessed equally among

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the Units to which it is assigned.

Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against the Unit which benefits from such service.

Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.

If a Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against that Unit Owner's Unit.

Fees, charges, late charges, fines, collection costs, and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.

Article 3 Restriction on Units and Common Elements

Section 3.1 Designation of Reserved Common Elements.

The Board of Directors shall have the power in their discretion to designate from time to time certain Common Elements as "Reserved Common Elements" and grant reserved rights to any or less than all of the Unit Owners. Such designation by the Board shall not be construed as a sale or disposition of the Common Elements.

Section 3.2 Use Restrictions.

Subject to the Special Declarant Rights reserved under Article 8, the following use restrictions apply to all Units and to the Common Elements:

- The use of each Unit is restricted to that of a single family residence and accessory uses as permitted herein. Except for those activities conducted as a part of the marketing and development program of the Declarant, no industry, business, trade or commercial activity, other than home professional pursuits without employees, public visits or nonresidential storage, mail, or other use of a Unit, shall be conducted, maintained or permitted in any part of a Unit.
- No immoral, improper, offensive or unlawful use may be made of the Property and Unit Owners shall comply with and conform to all applicable laws and regulations. A violating

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Unit Owner shall hold the Association and other Unit Owners harmless from all fines, penalties, costs and prosecutions for the violation thereof or noncompliance therewith.

Section 3.3 Occupancy Restrictions.

Subject to the Special Declarant Rights reserved under Article 8, the following occupancy restrictions apply to all Units and to the Common Elements:

- No electrical device creating electrical overloading of standard circuits may be used without permission from the Board of Directors. Misuse or abuse of appliances or fixtures within a Unit which affects other Units or the Common Elements is prohibited. Any damage resulting from such misuse shall be the responsibility of the Unit Owner from whose Unit it shall have been caused. Total electrical usage in any Unit shall not exceed the capacity of the circuits as labeled on the circuit breaker boxes.
- Each Unit Owner shall keep his or her Unit in a good state of preservation and cleanliness. No storage of trash will be permitted in or outside any Unit in such manner as to permit the spread of fire, odors, seepage, or encouragement of vermin.
- All fixtures and equipment will be used for the purposes for which they were designed.
- No noxious, offensive, dangerous or unsafe activity shall be carried on in any Unit, nor shall anything be done therein either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants. No Unit Owner or occupant shall make or permit any disturbing noises by himself or herself, his or her family, servants, employees, agents, visitors, tenants and licensees, nor do or permit anything to be done by such persons that will interfere with the rights, comforts or convenience of other Unit Owners or occupants. No Unit Owner or occupant shall cause noise or play, or suffer to be played, any musical instrument or operate or suffer to be operated a phonograph, television set, radio or similar device at such high volume or in such other manner that it shall cause unreasonable disturbance to other Unit Owners or occupants.

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- No animal, bird or reptile of any kind shall be raised, bred, or kept in a Unit, except for one dog, two cats, or other household pets approved and licensed by the Board of Directors or the Manager as to compatibility with the Condominium. Pets may not be kept, bred or maintained for any commercial purpose. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon three (3) days written notice following Notice and Hearing from the Board of Directors. The owner shall hold the Association harmless from any claim resulting from any action of his or her pet. Seeing eye dogs and hearing ear dogs will be permitted for those persons holding certificates of necessity. The provisions of this section shall not apply to dogs kept by personnel manning the entrance gate, or to those kept by any security contractor or employee of the Association, as to which approval of the Board of Directors must be obtained.
- All dryers will have lint filters, which will remain installed and prevent lint from accumulating in the vent duct. All stove hoods will have grease screens, which will remain installed and prevent grease from accumulating in the vent duct. All such filters and screens will at all times be used and kept in clean, good order and repair by the Unit Owner.
- No sign, window display or advertising visible from outside a Unit (except for a name plate or sign not exceeding nine square inches in area, on the main door to each Unit) shall be maintained or permitted in any part of a Unit, except with the written permission of the Board of Directors.

Section 3.4 Restrictions on Alienation.

No Unit may be conveyed pursuant to a timesharing plan, as defined by the New Mexico Timeshare Act.

Article 4 Easements

Section 4.1 Easement for Ingress and Egress Through Common Elements and Access to Units.

(a) Each Unit Owner in common with each other Unit Owner is hereby granted a non-exclusive easement appurtenant to each Unit for ingress and egress through all

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Common Elements, subject to such reasonable rules, regulations and restrictions as may be imposed by the Unit Owners' Association.

(b) Declarant reserves in favor of Declarant and the managing agent and/or any other person authorized by the Board of Directors the right of access to any Unit as provided in Section 47-7C-7 of the Condominium Act. In case of emergency, such entry shall be immediate whether the Unit Owner is present at the time or not.

Article 5 Amendment of Declaration

Section 5.1 Other than any amendment of the Declaration by the Declarant under its reserved Special Declarant Rights, no amendment of this Declaration may be made by the Association or the Unit Owners without the prior written approval of the institutional lender or lenders holding two-thirds (2/3) of the first mortgages encumbering Condominium Units ("Mortgagees") where such amendment: (a) changes the Percentage Interest or obligations of any Unit; (b) subdivides, partitions or relocates the boundaries of any Unit encumbered by a mortgage to a Mortgagee or the Common Elements; or (c) except as otherwise provided by the Amended Declaration, Bylaws or the Condominium Act, withdraws the submission of the Property to the Condominium Act.

Section 5.2 Other than any amendment of the Declaration by the Declarant under its reserved Special Declarant Rights, this Declaration may be amended only by a vote of the Owners of Units to which at least seventy percent (70%) of the votes in the Association are allocated.

Section 5.3 No amendment to this Declaration which purports to decrease, modify or otherwise limit the Special Declarant Rights described in Article VIII hereof shall be valid unless written consent of the Declarant is endorsed thereon prior to the recording of such amendment.

Article 6 Priority of Mortgages

Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to the Bylaws upon any Unit (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such Mortgage secures a loan made by an institutional lender; and provided, further, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Unit at such sale from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be

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enforced in the same manner as provided herein.

**Article 7
Special Declarant Rights**

Section 7.1 Declarant Control of the Association. Pursuant to Section 47-7C-3 of the Condominium Act, Declarant reserves the right to appoint the officers and members of the Board of Directors of the Association during the maximum period allowed by Subsections D and E of Section 47-7C-3, subject to the provisions of Section 47-7C-3(E).

Section 7.2 Use for Sales Purposes. All Units shall be subject to the statutory right in favor of Declarant provided in Section 47-7B-15 of the Condominium Act. Declarant reserves the right to use any Units owned by Declarant as models, management offices or sales offices until such time as Declarant conveys title thereto to Unit Owners. Declarant reserves the right to relocate the same from time to time within the Property; upon relocation or sale of a model, management office or sales office, the furnishings thereof may be removed. Declarant further reserves the right to maintain on the Property such advertising signs as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of Declarant.

**Article 8
Taxation**

Each Unit shall be deemed a separate parcel for tax purposes, and shall be separately assessed.

**Article 9
Substantial Completion**

It is hereby certified that the structural and mechanical systems of all buildings containing units, and all units hereby created, have been substantially completed in accordance with the plans.

In witness whereof, Declarant has executed this Declaration this 23rd day of April, 1992.

The Baxley Corporation, A New Mexico Corporation

By Roy S. Baxley
Roy S. Baxley, President

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State of Texas)

County of Henderson)

The foregoing document was acknowledged before me by Roy S. Baxley, president of The Baxley Corporation, a New Mexico corporation, for and on behalf of said corporation, this 23rd day of April, 1992.

Eleanor J. Robertson
Notary Public

My Commission Expires:

4/2/93



ELEANOR J. ROBERTSON
Notary Public, State of Texas
My Commission Expires April 2, 1993

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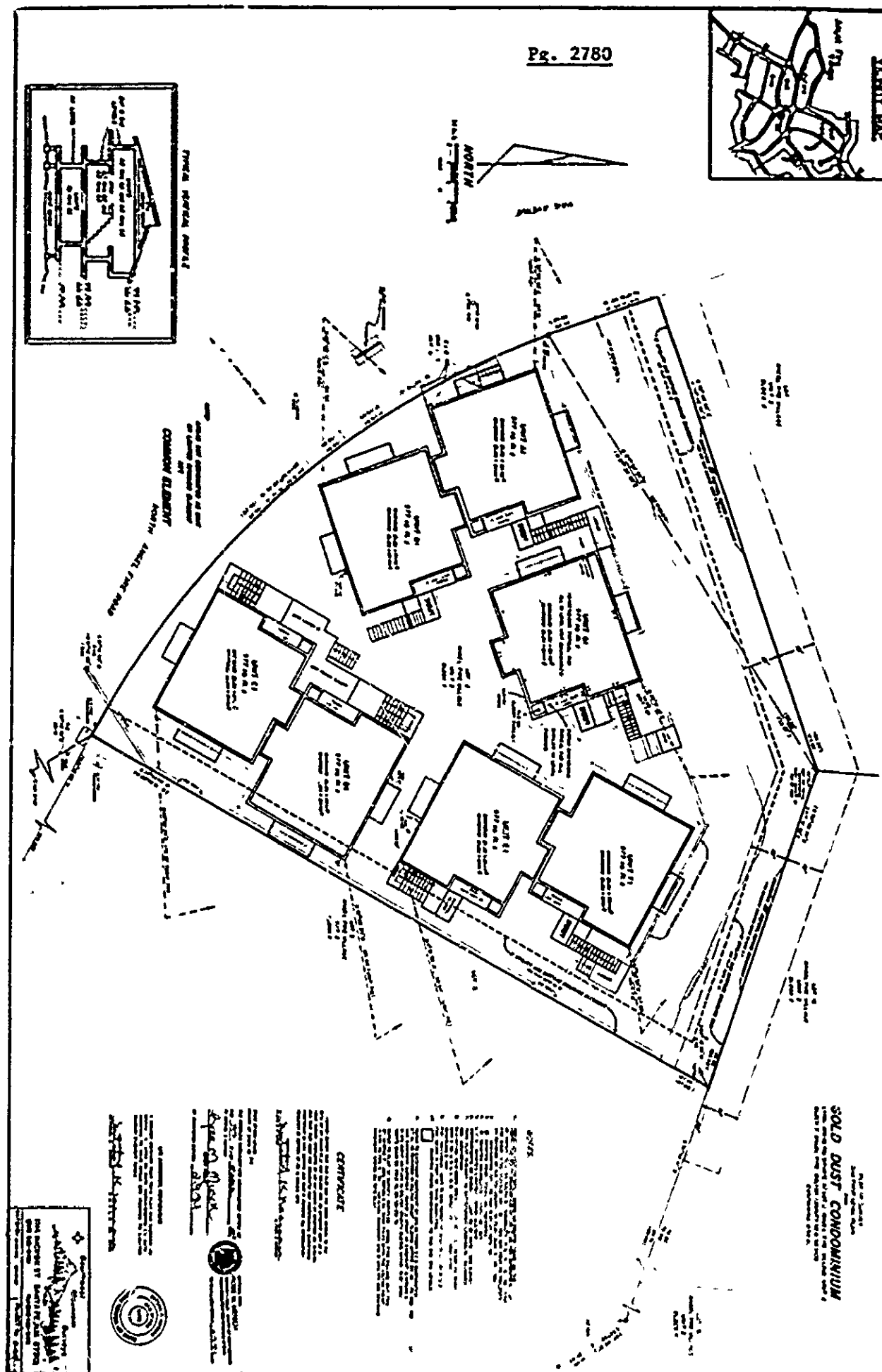


EXHIBIT A, page 1

Original of this sheet recorded at Book 8, page 363, Records of Colfax County, New Mexico

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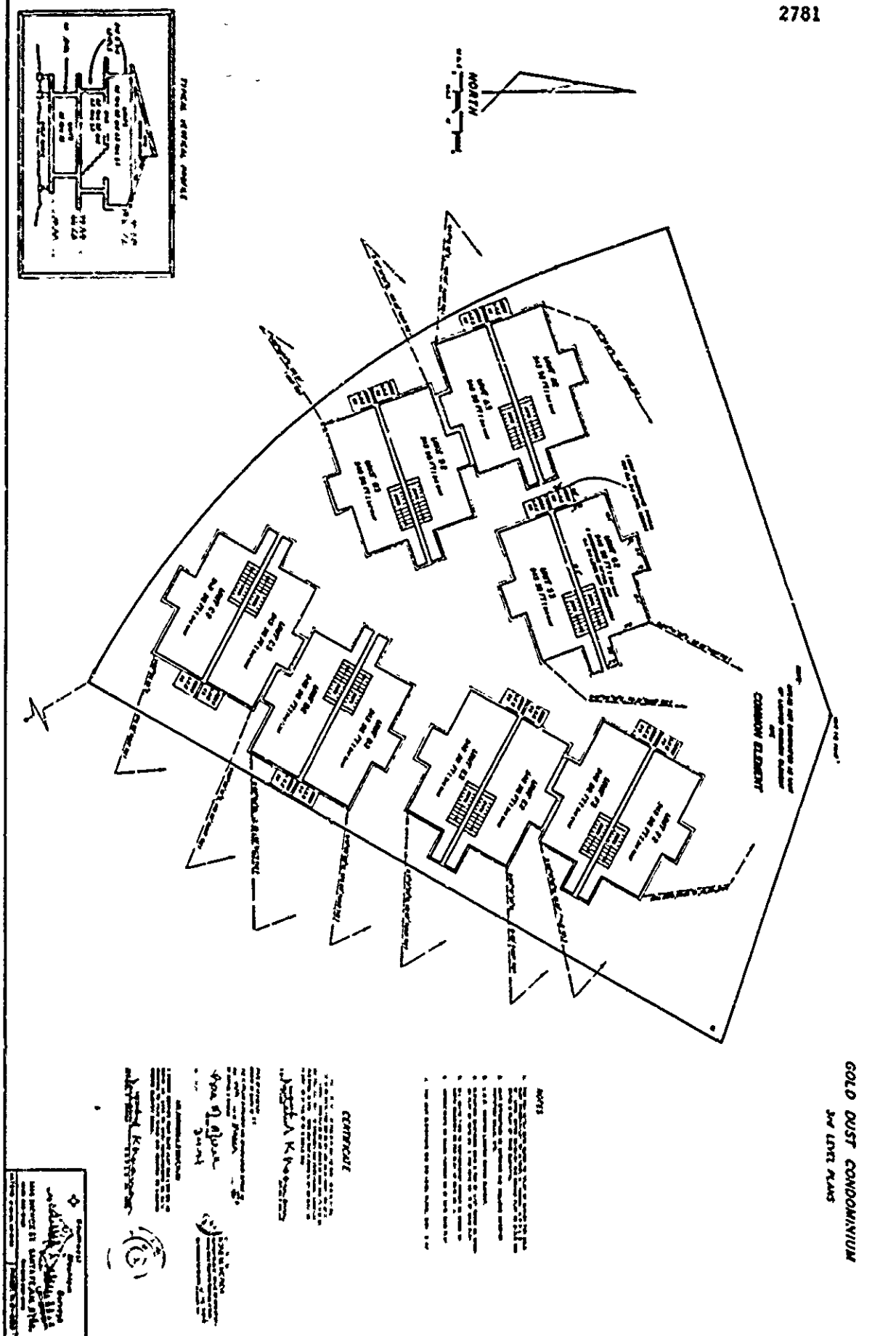


EXHIBIT A, page 2

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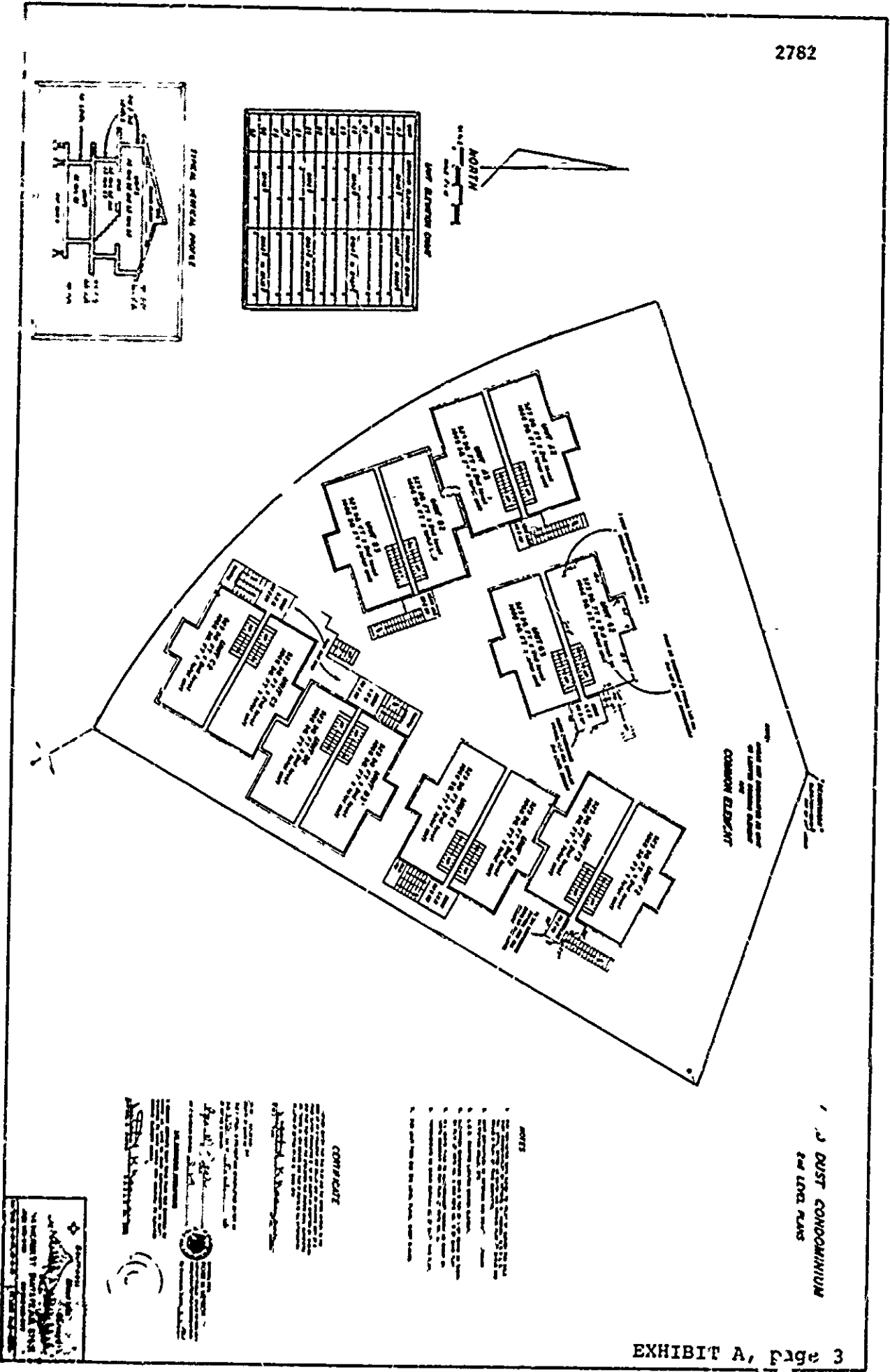


EXHIBIT A, page 3

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Unit	Size (1 ²)	Allocated Interest
A1	977	4.4893%
A2	1066	4.8982%
A3	1066	4.8982%
B1	977	4.4893%
B2	1066	4.8982%
B3	1066	4.8982%
C1	977	4.4893%
C2	1066	4.8982%
C3	1066	4.8982%
D1	977	4.4893%
D2	1066	4.8982%
D3	1066	4.8982%
E1	977	4.4893%
E2	1066	4.8982%
E3	1066	4.8982%
F1	977	4.4893%
F2	1066	4.8982%
F3	1066	4.8982%
G1	977	4.4893%
G2	1066	4.8982%
G3	1066	4.8982%
Total	21763	100.0000%

Exhibit E

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