

EXHIBIT D

**AMENDED AND RESTATED
BY-LAWS
OF
THE NEIGHBORHOODS OF WALNUT CREEK ASSOCIATION,
INC.**

**ARTICLE I
NAME AND LOCATION**

The name of the corporation is The Neighborhoods of Walnut Creek Association, Inc., hereinafter referred to as the "Association." The principal office of the Association shall be located at 2521-134 Schieffelin Road, Apex, North Carolina, 27502 but meetings of Members and directors may be held at such places within the State of North Carolina, Wake County, as may be designated by the Board of Directors. The location of the principal office of the Association may be changed by a majority vote of the Board of Directors.

**ARTICLE II
DEFINITIONS**

- 2.1 "Association" means The Neighborhoods of Walnut Creek Association, Inc., its successors and assigns.
- 2.2 "Classes of Membership" The Association shall have up to four classes of voting membership.

Class A: Class A Members shall be all Owners of detached single family units with the exception of the Class D Members, if any, and shall be entitled to one (1) vote for each Residential Unit owned. Class D Members may, however, be a Class A Member upon the termination of Class D membership. When more than one Person holds an interest in any Residential Unit, all such Persons shall be Members and the vote allocated to such Residential Unit shall be cast in accordance with the Planned Community Act.

Class B: Class B Members shall be all Owners of townhouse units with the exception of the Class D Members, if any, and shall be entitled to one (1) vote for each Residential Unit owned. Class D Members may, however, be a Class B Member upon the termination of Class D membership. When more than one Person holds an interest in any Residential Unit, all such Persons shall be Members and the vote allocated to such Residential Unit shall be cast in accordance with the Planned Community Act.

Class C: Class C Member(s) shall be all Owners of multifamily apartment house

structures, if any, with the exception of the Class D Members, and shall be entitled to one-tenth (1/10th) of a vote for each Residential Unit owned. Class D Members may, however, be a Class C Member upon the termination of Class D membership. When more than one Person holds an interest in any multifamily apartment house structure, all such Persons shall be Members and the vote allocated to such Residential Unit shall be cast in accordance with the Planned Community Act.

Class D: The Class D Member shall be the Declarant and shall be entitled to three (3) times the regular vote for each Residential Unit owned based on the class to which such Residential Unit would otherwise belong. The Class D membership shall cease and be converted to Class A, Class B or Class C membership, as appropriate, upon either of the following events, whichever occurs first:

- A. When the total votes outstanding in Class A, Class B and Class C membership equal the total votes outstanding in Class D membership, but provided that the Class D membership shall be reinstated if thereafter and before the time stated in subparagraph (B) below, Additional Lands are annexed to the Property without the assent of Class Members for the development of such Additional Lands by the Declarant, all as provided in Article IV, Section I, herein;
- B. On December 31, 2005; or
- C. Upon the surrender of the Class D membership by the Declarant.

- 2.3 "Common Area" shall mean all real property (including the improvements thereto) owned by the Association and the easements granted thereto for the common use and enjoyment of the Owners. The Common Area to be owned by the Association shall be described in deeds to the Association and designated as such on recorded maps of the Property. Common Areas shall include, without limitation, common properties, open space, landscape easements, landscaped medians, sign easements, sewer and water lines not located within any public easement or public street right-of-way and serving more than one lot, and any stormwater drainage lines, ponds, stormwater easements, or facilities serving more than one lot and not located within any public street right-of-way nor otherwise maintained by any governmental authority.
- 2.4 "Declarant" means RBAG/Walnut Creek, L.L.C., its successors and assigns as provided in the Planned Community Act.
- 2.5 "Declaration" means the Declaration of Covenants, Conditions and Restrictions for The Neighborhoods of Walnut Creek applicable to the Property recorded in the Office of

the Register of Deeds, Wake County, North Carolina, and all amendments thereto.

- 2.6 "Governing Documents" means these Bylaws, the Declaration and the Articles of Incorporation of the Association.
- 2.7 "Legal Requirements" means the requirements imposed by the laws and regulations of the State of North Carolina, Wake County and the City of Raleigh as well as the requirements imposed by the Governing Documents.
- 2.8 "Limited Common Area" shall mean all real property and improvements thereto owned by the Association for the exclusive use and enjoyment of the Class A and Class B Members, and the Class C Members shall not have any right to the use and enjoyment of the Limited Common Area. Limited Common Area shall include without limitation the pool and clubhouse facility and associated parking spaces and facilities including landscaping and lighting thereof. The Limited Common Area to be owned by the Association shall be described in deeds to the Association and designated as such on recorded maps of the Property.
- 2.9 "Lot" shall mean a portion of the Property, other than the Common Area, Limited Common Area, Townhome Common Area, private streets, and public street rights-of-way, intended for any type of independent ownership and use as may be set out in this Declaration and as shall be shown on the recorded plats of the Property or amendments thereto. Where the context indicates or requires, the term Lot includes any structure on the Lot.
- 2.10 "Member" means every person or entity entitled to membership in the Association as provided in the Declaration and under the Planned Community Act.
- 2.11 "Owner" means the record Owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of any obligation.
- 2.12 "Planned Community Act" means the provisions of Chapter 47F of the General Statutes of North Carolina applicable to the Property, as such provisions shall be amended and recodified from time to time.
- 2.13 "Property" or "Properties" shall mean and refer to that certain real Property described in the Declaration of Covenants, Conditions, and Restrictions for the Neighborhoods of Walnut Creek being within the Association's jurisdiction, and such additions as may hereafter be brought within the jurisdiction of the Association.

- 2.14 "The Neighborhoods of Walnut Creek Declaration" means the Declaration of Covenants, Conditions and Restrictions of The Neighborhoods of Walnut Creek recorded in the Office of the Register of Deeds, Wake County, North Carolina, and all amendments thereto.
- 2.15 "The Neighborhoods of Walnut Creek Association" means The Neighborhoods of Walnut Creek Association, Inc., its successors and assigns.
- 2.16 "Townhome Common Area" means all real property and improvements thereto owned by the Association for the exclusive use and enjoyment of the Townhomes. Townhome Common Areas shall include without limitation private streets and drives, all utilities and drainage facilities located underneath said private streets and drives not maintained by a governmental entity, parking spaces and facilities, including landscaping and lighting thereof. The Townhome Common Area to be owned by the Association shall be designated as such on recorded maps of the Property.

ARTICLE III OFFICES

- 3.1 Principal Office. The principal office of the Association shall be located at 2521-134 Schieffelin Road, Apex, North Carolina, 27502 or at such other place as shall be determined by a majority of the Board of Directors of the Association.
- 3.2 Registered Office. The registered office of the Association required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office. The registered office shall be at such place as shall be determined by a majority of the Board of Directors of the Association.
- 3.3 Other Offices. The Association may have offices at such other places as the Board of Directors may designate or as the affairs of the Association may require from time to time.

ARTICLE IV MEMBERSHIP

- 4.1 Membership. Every person or entity who is a record Owner, including the Declarant, is a Member of the Association and is subject to the Governing Documents and applicable Legal Requirements. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to the Governing Documents. Whenever a Person or Entity

ceases to be an Owner, termination of Membership shall not release or relieve any such Person or Entity from any liability or obligation incurred under the Declaration during the period of such Person's or Entity's ownership, nor impair any rights or remedies which the Association or any other Owner has with regard to such former Owner. Following termination of the Planned Community, all persons entitled to distributions of proceeds under the Planned Community Act shall be Members of the Association.

- 4.2 Suspension. The Board of Directors may suspend a Member's rights (including his family's, guest's, etc.) to use the recreation facilities during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for the period of the infraction plus a reasonable period not to exceed sixty (60) days, for infraction or violation of any provision of the Declaration, these Bylaws or published rules and regulations.

ARTICLE V MEETINGS OF MEMBERS

- 5.1 Place of Meetings. All meetings of Members shall be held at such place within the State of North Carolina and Wake County as shall be designated on the notice of the meeting or agreed upon by a majority of the votes of the Members entitled to vote thereat.
- 5.2 Annual Meetings. The annual meeting of the Members for the election of directors and the transaction of other business shall be held within the month of ~~January~~ each year at such time and at such place as determined by the Board of Directors. The annual meeting shall be held at least once a year.
- 5.3 Substitute Annual Meeting. If the annual meeting shall not be held within the month designated by these By-Laws, a substitute annual meeting may be called in accordance with the provisions of Section 5.4 of this Article V. A meeting so called shall be designated and treated for all purposes as the Annual Meeting.
- 5.4 Special Meeting. Special meetings of the Members may be called at any time by the President, a majority of the Board of Directors of the Association, or by Members owning not less than 10% of all votes in the Association.
- 5.5 Notice of Meetings. Written or printed notice stating the time and place and purpose of the meeting shall be given not less than 10 days nor more than 60 days before the date of any Members meeting, either by hand delivery or sent by prepaid U.S. Mail to

the mailing address of each Member entitled to such notice, by or at the direction of the Secretary, to each Member of record entitled to vote at such meeting. Notice of any meeting shall be given as provided in the Planned Community Act.

When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty days in any one adjournment, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

5.6 Voting Lists. At least ten days before each meeting of Members, the Secretary of the Association shall prepare an alphabetical list of the Members entitled to vote at such meeting or any adjournment thereof, with the address of and number of votes held by each, which list shall be kept on file at the registered office of the Association for a period of ten days prior to such meeting, and shall be subject to inspection by any Member at any time during the usual business hours. This list shall be produced and kept open at the time and place of the meeting and shall be subject to inspection by any Member during the whole time of the meeting. If more than one person owns a Lot, the vote allocated to such Lot shall be cast in accordance with the provisions of the Planned Community Act.

5.7 Quorum. One-tenth (1/10) of the votes of each class of Members of the Association entitled to vote, represented in person or by proxy at the beginning of the meeting, shall constitute a quorum at a meeting of Members for any action except as otherwise provided in the Governing Documents.

The Members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

In the absence of a quorum at the opening of any meeting of Members, such meeting may be adjourned from time to time without notice other than announcement at the meeting until a quorum shall be present or represented, by a vote of the majority of the votes present in person or proxy; and at any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting. The quorum requirements shall be reduced for the next meeting after adjournment for lack of a quorum as provided in the Planned Community Act.

5.8 Proxies. At all meetings of Members, votes may be voted either in person or by one or more agents authorized by a written proxy executed by the Member or by his duly authorized attorney in fact. All proxies must be in writing and filed with the secretary.

A proxy is not valid after the expiration of eleven months from the date of its execution, unless the person executing it specifies therein the length of time for which it is to continue in force, or limits its use to a particular meeting, but no proxy shall be valid after ten years from the date of its execution. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

- 5.9 Voting. The vote of a majority of the votes on any matter present at a meeting of Members at which a quorum is present, regardless of class, shall be the act of the Members on that matter, unless the vote of a greater number is required by law or by the Declaration, the By-Laws of this Association or the Planned Community Act.
- 5.10 Informal Action. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting, and filed with the Secretary of the Association to be kept as part of the Association's records. No more than six weeks shall elapse between the signature of the first member on the document and that of the last signature.
- 5.11 Presiding Officer. The President of the Association, or in the absence of the President, the Vice-President, shall preside at all meetings of the Members. The Secretary of the Association shall act as the Secretary of the meeting, or in the absence of the Secretary, the President shall designate some other person to act as the Secretary of the meeting. In the absence of both the President and Vice-President, the Members present at the meeting shall elect a Presiding Office for such meeting.
- 5.12 Order of Business. The order of business at the annual meeting and at any special meeting of the Members shall be as follows:
- (a) The calling of the meeting to order;
 - (b) The calling of the roll;
 - (c) The announcement by the Presiding Office of the purpose of the meeting and of the nature of the business which may be presented by it;
 - (d) The reading and approval of the minutes of any former meeting of the Members if such minutes have not been previously read and approved;
 - (e) The presentation of and action, if required, upon reports of officers and committees;
 - (f) unfinished business;
 - (g) new business, including the election of directors for the forthcoming year if the meeting be an annual meeting; and
 - (h) Adjournment.

ARTICLE VI
BOARD OF DIRECTORS

- 6.1 Number, Term and Qualification. So long as there is a Class D Membership, the affairs of this Association shall be managed by a Board of Directors consisting of 3 directors, who need not be Members of the Association.

At the first annual meeting of the Association after the termination of the Class D Membership, the number of directors shall be increased to seven (7), a majority of whom shall be Members of the Association, unless the Planned Community Act requires a smaller percentage of Directors to be Members. Two (2) directors shall be elected from the Townhouse Election District, two (2) directors shall be elected from the Apartment Election District, if any, and three (3) directors shall be elected from the Single Family Election District. At that meeting, the Single Family Election District Members shall elect one director for a term of one year, one director for a term of two years, and one director for a term of three years. The Townhouse Election District Members shall elect one director for a term of two (2) years and one director for a term of three (3) years. The Apartment Election District Members, if any, shall elect one director for a term of one (1) year and one director for a term of two (2) years. At each annual meeting thereafter, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose terms is/are expiring to serve a term of three (3) years. The number of directors may be changed by amendment of the By-Laws of the Association. The number of directors shall always be an odd number, and the Single Family Election District shall elect one more director than the Townhouse Election District and Apartment Election District, if any. For example, if there is no Apartment Election District, the Single Family Election District shall elect 4 directors, 1 for a term of 3 years, 2 for terms of 2 years and 1 for a term of 1 year, and the Townhouse Election District shall elect 3 directors, 1 for a term of 3 years, 1 for a term of 2 years and 1 for a term of 1 year.

- 6.2 Nomination. Nominations for election to the Board of Directors shall be made by the Board of Directors. Nominations may also be made from the floor at the annual meeting. The Board of Directors shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations must be made from the appropriate Election District.
- 6.3 Election of Directors. Except as provided in Sections 6.1 and 6.5 of this Article VI, the directors shall be elected at the annual meeting of Members by votes of the appropriate Election District, and those persons who receive the highest number of

votes shall be deemed to have been elected. If any Member so demands, the election of directors shall be by secret written ballot. Cumulative voting is not permitted.

- 6.4 Removal. Any director may be removed at any time, with or without cause, by a vote of the Members holding a majority of the outstanding votes entitled to vote to elect that director. If any directors are so removed, new directors may be elected at the same meeting. Additionally, any Director who has three (3) consecutive unexcused absences may be removed by majority vote of the Directors.
- 6.5 Vacancies. Any vacancy occurring in the Board of Directors (caused by death, resignation, removal or otherwise) may be filled by the affirmative vote of a majority of the remaining directors even though less than a quorum, or by the sole remaining director. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the authorized number of directors shall be filled only by election at an annual meeting or at a special meeting of Members called for that purpose. A vacancy must be filled from the appropriate Election District.
- 6.6 Compensation. The Board of Directors may not compensate directors for their services as such, but may provide for the payment of any or all actual expenses incurred by directors in performing their duties.

ARTICLE VII MEETINGS OF DIRECTORS

- 7.1 Regular Meetings. A regular meeting of the Board of Directors shall be held immediately after the annual meeting of the Members for the purpose of electing officers. In addition, the Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings.
- 7.2 Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. Such a meeting may be held as fixed by the person or persons calling the meeting.
- 7.3 Notice of Meetings. Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of the Board of Directors shall, at least 10 days and not more than 60 days before the meeting, give notice thereof by any usual means of communication. Such notice need not specify the purpose for which the meeting is called.
- 7.4 Waiver of Notice. Any director may waive notice of any meeting. The attendance by

a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

- 7.5 Quorum. A majority of the number of directors fixed by these By-Laws present at the beginning of the meeting shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.
- 7.6 Manner of Acting. Except as otherwise provided in these By-Laws, the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.
- 7.7 Presumption of Assent. A director who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the minutes or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.
- 7.8 Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.
- 7.9 Committees of the Board. The Board of Directors shall designate 3 individuals, who need not be Members, to constitute an Architectural Committee as provided in the Declaration and may appoint other committees as it deems appropriate. The designation of any committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any responsibility or liability imposed upon it or him by law.

ARTICLE VIII
POWERS/DUTIES OF THE BOARD OF DIRECTORS

- 8.1 Powers. The Board of Directors shall have the power to:
- (a) adopt and publish rules and regulations governing the use of the Common Area, Limited Common Area, Townhome Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish

fines and penalties for the infraction thereof;

- (b) suspend a Member's right to use of the recreational facilities as provided elsewhere in the Governing Documents and the Planned Community Act;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, the Declaration or the Planned Community Act;
- (d) declare the office of a director to be vacant in the event such director shall be absent from three (3) consecutive regular meetings of the Board of Directors, unless such absence or absences are excused by the Board of Directors; and
- (e) employ a manager, independent contractors, or such employees as they deem necessary, and to prescribe their duties. During Class D membership, all contracts shall contain a provision which allows the Association to terminate the contract at will upon sixty days notice without penalty.

8.2 Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of any class of Membership who are entitled to vote at such meeting;
- (b) supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration and the Planned Community Act, to:
 - (1) adopt a proposed budget for the Association at least 90 days in advance of each annual assessment period;
 - (2) send to each Member a written summary of the proposed budget and a written notice of the meeting of Members to consider ratification of the proposed budget at least 10 days and not more than 60 days in advance of such meeting; and unless otherwise provided in the Planned Community Act, there shall be no requirement that a quorum be present at such meeting to consider ratification of the proposed budget. The proposed budget shall be ratified unless at that meeting a majority (or such smaller

percentage as required by the Planned Community Act) of the votes of all Members rejects the proposed budget. In the event the proposed budget is rejected, the budget of the Association shall be the last ratified budget; and

- (3) foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.
- (d) issue, or to cause an appropriate officer or agent to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment and the amount thereof;
- (e) pay ad valorem taxes and public assessments levied against the real and personal Property owned in fee by the Association;
- (f) procure and maintain adequate liability and hazard insurance on Property owned by the Association;
- (g) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (h) cause the Common Area, Limited Common Area, Townhome Common Area and the improvements thereto to be maintained; and
- (i) direct and supervise the affairs of the Association and require the Association to fulfill all of its obligations and duties set forth in the Declaration.
- (j) appoint Members to the Architectural Committee for such terms as deemed appropriate.

ARTICLE IX OFFICERS

- 9.1 Officers. The officers of the Association shall consist of a President, and a Vice-President, who shall at all times be Members of the Board of Directors, a Secretary, a Treasurer and such Assistant Secretaries, Assistant Treasurers, and such other officers as the Board of Directors may from time to time elect. Any two or more offices may be held by the same person, but no officer may act in more than one capacity where the action of two or more officers is required.

- 9.2 Election, Term and Qualification. The officers shall be elected by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, and each officer shall hold office for one (1) year unless he shall sooner resign, be removed, or be otherwise disqualified to serve.
- 9.3 Resignation and Removal. Any officer or Member of the Board may be removed by the Board, with or without cause, whenever in its judgement the best interests of the Association will be served thereby. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- 9.4 Bonds. The Board of Directors may require an officer, agent, or employee of the Association to give bond to the Association, with sufficient sureties, conditioned on the faithful performance of the duties of his respective office or position, and to comply with such other conditions as may from time to time be required by the Board of Directors.
- 9.5 President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Board of Directors and Members. He shall sign, with the Secretary, an Assistant Secretary, or any other proper officer, any deeds, leases, mortgages, promissory notes, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be delegated by the Board of Directors or these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general he shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.
- 9.6 Vice-President. In the absence of the president or in the event of his death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting shall have all powers of and be subject to all the restrictions upon the President. The Vice-President shall perform duties as from time to time may be assigned to him by the President or Board of Directors.
- 9.7 Secretary. The Secretary shall: (a) keep the minutes of the meetings of Members, of Board of Directors and of all Committees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws or as required by law; (c) be custodian of the Association records and of the seal of the Association and see that the seal of the Association is affixed to all documents the

execution of which on behalf of the Association under its seal is duly authorized; (d) keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member; (e) keep or cause to be kept a record of the Association's Members, giving names and addresses of all Members and the number of votes held by each, and prepare or cause to be prepared voting lists prior to each meeting of Members as required by law; and (f) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

- 9.8 Assistant Secretaries. In the absence of the Secretary or in the event of his death, inability or refusal to act, the Assistant Secretary, unless otherwise determined by the Board of Directors, shall perform the duties of the Secretary, and when so acting shall have all the powers of and be subject to all the restrictions upon the Secretary. They shall perform such other duties as may be assigned to them by the Secretary, by the President, or by the Board of Directors.
- 9.9 Treasurer. The Treasurer shall (a) have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such depositories as shall be selected; (b) prepare, or cause to be prepared, a true statement of the Association assets and liabilities as if the close of each fiscal year; (c) shall cause an annual audit of the Association books to be made by an independent certified public accountant at the completion of each fiscal year; (d) issue, at the direction of the Board of Directors, certificates as to whether assessments on a specified Lot have been paid; and (e) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors, or by these By-Laws.
- 9.10 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

ARTICLE X MEMBERSHIP REGISTER

- 10.1 For the purposes of determining Members of the Association entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or in order to make a determination of Members for any other proper purpose, the Board of Directors may provide that the membership register shall be closed for a stated period but not to exceed, in any case, fifty (50) days and, in case of a meeting of Members, not less than ten (10) days immediately proceeding the date on which the particular action, requiring such

determination of Members is to be taken.

- 10.2 In lieu of closing the membership register, the Board of Directors may fix in advance a date as the record date for any such determination of Members, such record date in any case to be not more than fifty (50) days and, in case if a meeting of Members, not less than ten (10) days immediately preceding the date on which the particular action, requiring such determination of Members is to be taken.
- 10.3 If the membership register is not closed and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, the date on which notice of the meeting is mailed shall be the record date for such determination of Members.
- 10.4 When a determination of Members entitled to vote at any meeting of Members has been made as provided in this section, such determination shall apply to any adjournment thereof except where the determination has been made through the closing of the membership register and the stated period of closing has expired.

ARTICLE XI
GENERAL PROVISIONS

- 11.1 Books and Records. The books, records and papers of the Association shall at all times, during reasonable business hours be subject to inspection by any Member, his agent or attorney. The Declaration, the Articles of Incorporation and the By-Laws of the Association and the financial statements for the Association for the immediately preceding fiscal year shall be available for inspection by any Member and any first mortgage holders, their insurer or guarantors, at the principal office of the Association, where copies may be purchased at reasonable cost.
- 11.2 Assessments. As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum or the highest rate allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Property and late fees, interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area, Limited Common Area, Townhome Common Area or abandonment of such Owner's Lot.

- 11.3 Seal. The seal of the Association shall consist of two concentric circles between which is the name of the Association and the year of incorporation and in the center of which is inscribed SEAL.
- 11.4 Waiver of Notice. Whenever any notice is required to be given to any Member or director by law, by Declaration, or by these By-Laws, a waiver thereof in writing signed by the person or persons entitled to such notice whether before or after the time stated therein, shall be equivalent to the giving of such notice.
- 11.5 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.
- 11.6 Amendments. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy. Notwithstanding any provision in this instrument to the contrary, as long as the Declarant controls the Association and if the Property has been approved by the Veterans Administration ("VA") and/or the Department of Housing and Urban Development ("HUD") for loans guaranteed by the VA or HUD (but not otherwise), any amendment of these By-Laws may be vetoed by the VA or HUD. Provided, however, that any amendment which would have a disproportionate impact on a particular Election District must be approved by a majority of the Members present in person or by proxy from that Election District or such higher percentage as required by the Planned Community Act.
- 11.7 Conflicts. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration for The Neighborhoods of Walnut Creek and these By-Laws, the Declaration shall control.

[Signatures are on the following page]

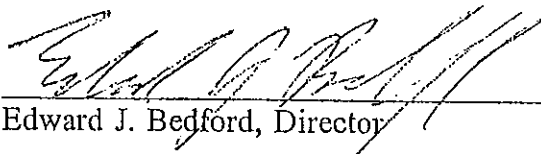
[Signature Page

Adopted this 12th day of January, 2000 by the undersigned, being all of the Directors of the Association and approved by the Members of the Association.

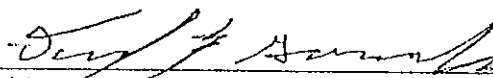
THE NEIGHBORHOODS OF WALNUT CREEK ASSOCIATION, INC.



Michael Dean Chadwick, Director



Edward J. Bedford, Director



David Goracke, Director

The undersigned, being all the Members, consent to the amendment and restatement of the Bylaws of the Association.

CROSSMANN COMMUNITIES OF NORTH CAROLINA, INC.

TOM CHARNETZKY CUSTOM HOMES, INC.

By: _____

President

By: _____

President

JUSTYN L. HARPER

[Signature of Declarant on following page]

[Signature Page

Adopted this _____ day of _____, 2000 by the undersigned, being all of the Directors of the Association and approved by the Members of the Association.

THE NEIGHBORHOODS OF WALNUT CREEK
ASSOCIATION, INC.

Michael Dean Chadwick, Director

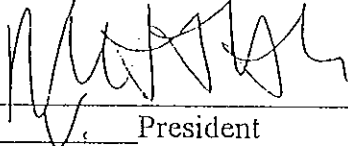
Edward J. Bedford, Director

David Goracke, Director

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CROSSMANN COMMUNITIES OF
NORTH CAROLINA, INC.

TOM CHARNETZKY CUSTOM
HOMES, INC.

By:  _____
President

By: _____
President

JUSTYN L. HARPER

[Signature of Declarant on following page]

[Signature Page

Adopted this _____ day of _____, 2000 by the undersigned, being all of the Directors of the Association and approved by the Members of the Association.

THE NEIGHBORHOODS OF WALNUT CREEK ASSOCIATION, INC.

Michael Dean Chadwick, Director

Edward J. Bedford, Director

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CROSSMANN COMMUNITIES OF NORTH CAROLINA, INC.

TOM CHARNETZKY CUSTOM HOMES, INC.

By: _____

President

By: *Tom Charnetzky*

President

Justin L. Harper

JUSTYN L. HARPER


[Signature of Declarant on following page]

[Signature page continued]

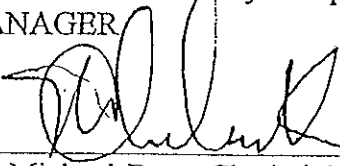
DECLARANT/MEMBER:

RBAG/WALNUT CREEK, L.L.C., a Delaware limited liability company

By: **M-COBEGO, INC.**, an Illinois corporation, **MANAGER**

By: 
Name & Title: Bruce H. Block, President

By: **1st AMERICAN REALTY, L.L.C.**, a N.C. limited liability company, **MANAGER**

By: 
Michael Dean Chadwick, Manager (SEAL)