

HUDSON HEIGHTS CONDOMINIUM

CONDOMINIUM DOCUMENTS

Prepared April 14, 2023

Table of Contents

[click on a document to jump to the first page of the selected document]

Condominium Declaration, Plat and Plans

Declaration of Condominium

Recorded September 30, 1986 in Book 1314, Page 168, Durham County Registry

Plat and Plans of Condominium

Recorded September 30, 1986 in Plat Book 112, Page 83, and Condominium Book 4, Pages 21-24, Durham County Registry

First Amendment to Declaration of Condominium

Recorded July 30, 2022 in Book 3521, Page 823, Durham County Registry

Second Amendment of Declaration of Condominium

Recorded February 20, 2023 in Book 9871, Page 522, Durham County Registry

Hudson Heights Condominium Association Documents

Articles of Incorporation for Association

Filed September 26, 1986 with the North Carolina Secretary of State

Amendment to Articles of Incorporation for Association

Filed March 2, 2023 with the North Carolina Secretary of State

Bylaws of Association

Originally attached as Exhibit E to Declaration of Condominium

Amendment to Bylaws of Association

Adopted February 14, 2023, and attached as Exhibit B to Second Amendment to Declaration

Written Consent of Association dated February 14, 2023

Addresses appointment of President and approves the 2023 amendments to the Declaration, Articles and Bylaws

Projected Initial Budget of Association, beginning 2023

BOOK 1314 PAGE 168

PREPARED BY & MAIL TO: C. Thomas Biggs, Attorney,
P.O. Box 376, Durham, North Carolina 27702

TABLE OF CONTENTS
FOR
BAY CREEK

| <u>PARAGRAPH</u> | | <u>PAGE</u> |
|------------------|---|-------------|
| 1 | Name and Address. | 2 |
| 2 | Definitions | 2 |
| 3 | Identification of Property. | 2 |
| | A. Land | 2 |
| | B. Building | 3 |
| | C. Unit Designations. | 3 |
| | D. Common Areas and Facilities. | 3 |
| | (1) Extent. | 3 |
| | (2) Nature of Interest. | 3 |
| | E. Amendment to Plans | 4 |
| 4 | Amendment of Ratios | 4 |
| 5 | Nature of Interest in Units | 4 |
| 6 | Use | 5 |
| 7 | Service of Process. | 5 |
| 8 | Easements | 5 |
| 9 | Partitioning. | 6 |
| 10 | Parking Spaces. | 7 |
| 11 | Liens | 7 |
| 12 | Operating Entity. | 7 |
| | A. Name | 7 |
| | B. Powers | 7 |
| | C. Members. | 8 |
| | (1) Qualifications. | 8 |
| | (2) Change of Membership. | 8 |
| | (3) Voting Rights | 8 |
| | (4) Approval or Disapproval of Matters. | 8 |
| | (5) Restraint Upon Assignment of Shares in Assets. | 9 |
| | (6) Designation of Voting Representative. | 9 |
| | D. Indemnification of Directors | 9 |
| | E. Bylaws | 10 |
| | F. Property in Trust. | 10 |
| 13 | Common Expense. | 10 |
| 14 | Management and Maintenance. | 10 |
| | A. Manager. | 10 |
| | B. Owner's Maintenance. | 10 |
| | C. Limitation of Liability. | 11 |
| 15 | Assessments. | 12 |
| 16 | Insurance | 18 |
| | A. Ownership of Policies. | 18 |
| | B. Coverage | 18 |
| | C. Public Liability Insurance | 19 |
| | D. Premiums | 19 |
| | E. Proceeds | 19 |

| <u>PARAGRAPH</u> | | <u>PAGE</u> |
|------------------|---|-------------|
| | F. In the Event a Mortgage Endorsement Has Been Issued as to a Unit. | 19 |
| | G. Additional Coverage. | 19 |
| 17 | Distribution of Insurance Proceeds. | 20 |
| | A. Expense of the Trust | 20 |
| | B. Reconstruction or Repair | 20 |
| | C. Failure to Reconstruct or Repair | 20 |
| | D. Mortgagees | 20 |
| 18 | Damage and Destruction. | 20 |
| | A. Determination to Reconstruct or Repair | 20 |
| | (1) Common Element. | 20 |
| | (2) Condominium Units | 21 |
| | (a) Partial destruction. | 21 |
| | (b) Total destruction. | 21 |
| | B. Plans and Specifications | 21 |
| | C. Responsibility | 21 |
| | D. Estimate of Costs. | 21 |
| | E. Assessments. | 21 |
| 19 | Use and Occupancy | 22 |
| | A. Use. | 22 |
| | B. Nuisance | 22 |
| | C. Exterior | 22 |
| | D. Signs. | 22 |
| | E. Structures, Outbuildings, and Trailers | 22 |
| | F. Rules and Regulations. | 23 |
| | G. Breach of Restrictions | 23 |
| 20 | Units Subject to Declaration. | 23 |
| 21 | Amendment of Declaration. | 24 |
| 22 | Waiver. | 25 |
| 23 | Captions. | 25 |
| 24 | Limitation of Liability | 25 |
| | A. Limitation upon Liability of Association | 25 |
| | B. Property in Trust. | 25 |
| 25 | Miscellaneous | 25 |
| | A. Encroachments | 25 |
| | B. Exemption from Liability. | 26 |
| | C. Merger of Units | 26 |
| | D. Construction | 26 |
| | E. Warranties and Representations | 26 |
| | F. Controlling. | 26 |
| | G. Covenants. | 27 |
| | H. Invalidation | 27 |
| | I. Refuse Collection. | 27 |

EXHIBIT "A"
Legal Description of Land

EXHIBIT "B"
Description of Buildings

EXHIBIT "C"
Plans and Specifications of Buildings

EXHIBIT "D"
Percentage Ownership of each Unit in the Common Elements

EXHIBIT "E"
Bylaws of the Azalea Shores of Durham Association, Inc.

DECLARATION OF UNIT OWNERSHIP UNDER
THE PROVISIONS OF CHAPTER 47A OF THE
GENERAL STATUTES OF NORTH CAROLINA, AND OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 22nd day of SEPTEMBER, 1986, by
ROBERTS CONSTRUCTION COMPANY, A North Carolina Corporation, hereinafter
referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, the Declarant is the owner of record of the fee simple title
of certain properties in Durham County, North Carolina, which are more
particularly described in Exhibit "A" attached hereto and incorporated herein
by reference; and

WHEREAS, the Declarant is the owner of certain condominium type multi-
unit buildings and certain other improvements heretofore constructed or
hereafter to be constructed upon the aforesaid property and it is the desire
and the intention of the Declarant to divide the project into "condominium
units" or "units" as those terms are defined under the provisions of the
North Carolina Unit Ownership Act, and to sell and convey the same to various
purchasers subject to the covenants, conditions and restrictions herein
reserved to be kept and observed; and

WHEREAS, the Declarant desires and intends, by the filing of this
Declaration, to submit the above described property and the multi-unit
buildings located thereon and all other improvements constructed or to be
constructed thereon, together with all appurtenances thereto, to the
provisions of the North Carolina Unit Ownership Act (Chapter 47A, North
Carolina General Statutes).

NOW, THEREFORE, the Declarant does hereby publish and declare that all
of the property described in Exhibit "A" and as described in Paragraph 3
below is held and shall be held, conveyed, hypothecated, encumbered, used,
occupied, and improved subject to the following covenants, conditions,
restrictions, uses, limitations and obligations, all of which are declared
and agreed to be in furtherance of a plan for the improvement of said
property and the division thereof into condominium units and shall be deemed
to run with the land and shall be a burden and a benefit to Declarant, its
successors and assigns, and any person acquiring or owning an interest in the

real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. NAME AND ADDRESS

The name by which this condominium is to be identified is:

"BAY CREEK CONDOMINIUMS"

The condominium is located on the east side of Haverford Street and the mailing address for said condominium is:

Bay Creek Condominiums
411 Andrews Road, Unit 110
Durham, North Carolina 27705

2. DEFINITIONS

The terms used herein and in the Bylaws shall have the meanings stated in the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes unless otherwise defined herein or in the Bylaws or unless the context otherwise requires.

2.1 Condominium Unit means a unit as defined in the said Unit Ownership Act.

2.2 Association means the Bay Creek Association, Inc. consisting of all the unit owners acting as a group in accordance with the Bylaws and this Declaration.

2.3 Condominium means all of the condominium property as a whole when the context so permits, as well as the meaning stated in the said Unit Ownership Act.

2.4 Singular, Plural, Gender. 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.

2.5 The Developer is Roberts Construction Company, A North Carolina Corporation.

2.6 The terms "Association of Unit Owners," "Building," "Common Areas and Facilities" (sometimes referred to as "Common Property"), "Common Expenses," "Common Profit," "Declaration," "Majority" or "Majority of Unit Owners," "Person," "Property," "Recordation," "Unit" or "Condominium Unit," "Unit Designation" and "Unit Owner," unless otherwise plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meanings set out in Section 3 of Chapter 47A of the General Statutes of North Carolina, known as the Unit Ownership Act.

3. IDENTIFICATION OF PROPERTY

A. LAND: The description of the land on which the buildings and improvements are, or are to be, located is set forth in Exhibit "A" of this Declaration.

B. BUILDING: The description of the building erected by the Declarant on the land described in Exhibit "A" is set forth in Exhibit "B" which states the number of stories and basements, the number of units, and the principal construction materials of each condominium structure.

Said multi-unit condominium structures are more particularly described in the plans of said building, a copy of which is annexed hereto as Exhibit "C".

C. UNIT DESIGNATIONS: The unit designation of each condominium unit, its location, its dimensions, approximate area, number of rooms and common areas and facilities to which it has immediate access, and other data concerning its proper identification are set forth on Exhibit "C" hereinabove referred to and made a part hereof. No unit bears the same identifying number as does any other unit. Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings, and floors which are shown on said plans, subject to such encroachments as are contained in the building, whether the same now exist or may be caused or created by construction, settlement or movement of the building, or by permissible repairs, construction or alteration.

D. COMMON AREAS AND FACILITIES:

(1) Extent: The common areas and facilities consist of all parts of the property described in Exhibits "A" and "B" other than the individual dwelling units therein as described in Exhibit "C" above.

(2) Nature of Interest: Each of the unit owners shall own an undivided interest in the common elements and said undivided interest, stated as percentages of such ownership in the said common elements, is set forth in Exhibit "D" which is annexed to this Declaration and made a part hereof.

The fee title to each condominium unit shall include both the unit and the respective undivided interest in the common elements and the said undivided interest in the common elements is to be deemed to be conveyed or encumbered with its respective unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the condominium unit.

Any attempt to sever or separate the fee title to a condominium unit from the undivided interest in the common elements appurtenant to each unit shall be null and void.

(3) All areas of the described property not within any units shall be common areas; and all portions of any building or other improvement not included within a unit shall be a common facility. The common facilities shall include all installations, items and equipment for utility service to more than one unit and shall also include tangible personal property required for the maintenance and operation of the condominium even though owned by the Association. The use of the term "common elements" in this document shall be synonymous with "common areas and facilities."

E. AMENDMENT TO PLANS:

(1) The Developer reserves the right to change the interior design and arrangement of all units, and to alter the boundaries between units, so long as the Developer owns the units so altered. No such change shall increase the number of units nor alter the boundaries of the common elements without amendment of this Declaration by approval of the Association and unit owners in the manner elsewhere provided. If the Developer shall make any changes in units so authorized, such changes shall be reflected by an amendment to the Declaration. If more than one unit is concerned, the Developer shall apportion between the units the shares in the common elements which are appurtenant to the units concerned. No unit, at any time, may contain less than six hundred (600) square feet.

(2) An amendment of this Declaration reflecting such alteration of condominium unit plans by Developer need be signed and acknowledged only by the Developer and need not be approved by the Association, unit owners or lienors or mortgagees of units or of the condominium, whether or not elsewhere required for an amendment.

4. AMENDMENT OF RATIOS

As provided by this Declaration, the Bylaws of Bay Creek Association, Inc. (hereinafter called the "Association") and the terms of Chapter 47A of the General Statutes of North Carolina, the ratio of the undivided interest of each unit owner in the common areas and facilities as set forth on Exhibit "D" attached hereto may be altered by an amendment to this Declaration duly recorded.

5. NATURE OF INTEREST IN UNITS

Every condominium unit, together with its undivided common interest in the common areas and facilities, shall for all purposes be, and it is hereby declared to be and to constitute, a separate parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of his condominium unit subject only to the covenants, restrictions, easements, rules, regulations, resolutions, and decisions as may be contained or provided for herein and in the accompanying Bylaws and minutes of the Association and the Board of Directors.

6. USE

The buildings and each of the units are hereby restricted to residential use by the owner thereof, his immediate family, guests, invitees, lessees and licensees. No Unit Owner may lease less than the entire Unit. Any lease agreement shall be in writing and must provide that it shall be subject to the provisions of this Declaration and that any failure by the lessee to comply with the terms hereof shall be a default under the lease. No Unit may be leased or rented for a period of less than thirty (30) days. There is no other restriction on the right of any Unit Owner to lease his Unit.

7. SERVICE OF PROCESS

Jack K. Ward is hereby designated to receive Service of Process in any action which may be brought against or in relation to this condominium development and/or the Association. Said person's place of business is 411 Andrews Road, Unit 110, Durham, North Carolina 27705, which is within the city and county in which the development is located. The Board of Directors of Bay Creek Association, Inc., may revoke the appointment of any such agent and appoint a successor, all pursuant to the Bylaws.

8. EASEMENTS

The following easements are covenants running with the land of the condominium:

(A) Each unit owner shall have an easement in common with the other owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables,

wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors of the Association or their designee shall have the right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common facilities contained therein or elsewhere in the building.

(B) The Association may hereafter grant easements, as approved by the Board of Directors, for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair and replace water lines, gas lines, pipes, sewer lines, television cables, telephone wires and equipment and electrical conduits, and wires over, under, along and on any portion of the common areas.

(C) Ingress and Egress is reserved for pedestrian traffic over, through and across sidewalks, paths, walks and lanes as the same from time to time may exist upon the common elements; and for vehicular traffic over, through and across such portions of the common elements as from time to time may be paved and intended for such purposes.

(D) Easements are reserved to the owners of units in the Bay Creek Condominiums for pedestrian and vehicular traffic over, through and across such driveways and parking areas as from time to time may be paved and intended for such purposes, and for the construction and maintenance of water, sewer and other utilities.

(E) If a unit shall encroach upon any common element, or upon any other unit by reason of original construction or by the nonpurposeful or nonnegligent act of the unit owner or of the Association, then an easement appurtenant to such encroaching unit, to the extent of such encroachment, shall exist so long as such encroachment shall exist.

(F) The Developer hereby reserves unto itself the right to grant easements over any of the common elements of this condominium to be used for, by or in connection with any other condominiums which may hereafter be erected on property owned by the Developer in the vicinity of the property covered hereby, to the same extent as if said common elements were common elements of said condominiums or as may become necessary for the purpose of the undersigned, its grantee, lessee, successors, or assigns, servicing its adjacent properties with utility services, drainage and easements for ingress and egress.

9. PARTITIONING

The common areas and facilities shall not be divided nor shall any right to partition any thereof exist. Nothing herein contained, however, shall be deemed to prevent ownership of a condominium unit by the entireties, jointly, or in common or in any other form by law permitted.

10. PARKING SPACES

Parking spaces are located in the condominium clusters and are not identified by numbers. These parking spaces are available generally for owners, their tenants, guests, and invitees without reservation or restriction.

11. LIENS

While the property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the common areas and facilities except with the unanimous consent in writing of all of the condominium unit owners and the holders of first liens thereon except such liens as may arise or be created against the several units and their respective common interests under the provisions of the North Carolina Unit Ownership Act. Every agreement for the performance of labor, or the furnishing of materials to the common areas and facilities, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and the right to file a mechanics lien or other similar lien by reason of labor performed or materials furnished is waived.

12. OPERATING ENTITY

The operation of the condominium shall be by an Incorporated Association organized pursuant to Chapter 55A of the General Statutes of North Carolina.

A. Name: The name of the Association shall be:

BAY CREEK ASSOCIATION, INC.

B. Powers: The Association shall have all of the powers and duties set forth in the Unit Ownership Act, except as limited by this Declaration and the Bylaws, and all of the powers and duties reasonably necessary to operate the condominium as set forth in this Declaration and the Bylaws and as they may be amended from time to time.

The Association's powers of maintenance, operation, administra-

tion, management, and care of the condominium property may be delegated to a Manager as provided for in Article 14 herein.

All other affairs of the Association shall be conducted by a Board of Directors who shall be designated in the manner provided in the Bylaws of the Association.

C. Members:

(1) Qualifications: The members of the Association shall consist of all of the record owners of units.

(2) Change of Membership: After receiving the approval of the Association elsewhere required, change of membership in the Association shall be established by recording in the public records of Durham County, North Carolina, a deed or other instrument establishing a record title to a unit or units in the condominium and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

(3) Voting Rights: There shall be one person with respect of each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners. Such person shall be known and hereafter referred to as a "voting member". Such voting member may be the owner or one of a group composed of all of the owners of a unit ownership, or may be some other person designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual notice to the Board of Directors of the death or judicially declared incompetence of any designator, or by written notice to the Board of Directors by the owner or owners. The total number of votes of all voting members shall be one hundred (100), and each owner or group of owners (including the Board of Directors, if said Board or its designee shall then hold title to one or more units) shall be entitled to the number of votes equal to the total of the percentage of ownership in the common areas and facilities applicable to his or their unit ownership as set forth in Exhibit "D" of this Declaration. The unit owner may vote on any matter by secret ballot upon motion duly made and seconded by any voting member.

(4) Approval or Disapproval of Matters: Whenever the decision of

a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the Joinder of record owners is specifically required by this Declaration.

(5) Restraint Upon Assignment of Shares in Assets: The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his unit.

Any assessment for reserve or sinking funds for capital improvements or repairs shall be held by the Board of Directors for the purposes so designated and for no other. In the event such purpose or contingency does not occur, said allocated funds shall be expended only for the general operation of the property and any excess assessments in any year shall be used to reduce the following year's assessments.

(6) Designation of Voting Representative: If a unit is owned by one person, his right to vote shall be established by the record title to his unit. If a unit is owned by more than one person, or by a partnership, trust, or estate 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 or signed by the partnership, trustee, or other fiduciary and filed with the Secretary of the Association. 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, vice president or secretary of the corporation and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the unit concerned.

D. Indemnification of Directors: Every director and every 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 at the time of the acts in question or such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his

duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

E. Bylaws: The Bylaws of the association shall be in the form attached hereto as Exhibit "E" as amended from time to time.

F. Property in Trust: All funds and the titles of all properties acquired by the Association and the proceeds thereof shall be held in trust for the members in accordance with the provisions of this Declaration and the Bylaws.

13. COMMON EXPENSE

The common expenses and surpluses of the property shall be shared by the unit owners in the ratios specified in Exhibit "D" as amended from time to time.

14. MANAGEMENT AND MAINTENANCE

A. Manager: The Association may enter into a contract with a Management Company or Manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. All the powers and duties of the Association necessary or convenient for such maintenance and management may be delegated to and vested in the Manager by the Board of Directors, except such as are specifically required by this Declaration, the Bylaws, or the Unit Ownership Act, to have the approval of the Board of Directors or the Association. The Manager is hereby further authorized to recommend the annual budget, and, upon approval thereof by the Board of Directors, make assessments for common expenses, and collect such assessments as provided in this Declaration and the Bylaws, subject always to the supervision and right of approval of the Board of Directors.

B. Owner's Maintenance:

(1) Each unit owner agrees as follows:

(a) To maintain in good condition and repair his unit and all interior surfaces within his unit (such as walls, ceilings, and floors) which are not common elements or exterior surfaces the maintenance of which shall be the responsibility of the Association and assessable to all the unit

owners as a common expense.

(b) Not to make or cause to be made any structural addition to the common elements without the prior written consent of the Association.

(c) To make no alteration, repair, replacement, or change of the common elements, or to any outside or exterior portion of the building, whether within a unit or part of the common elements.

(d) To permit the Board of Directors or the Manager, or the agents or employees of the Association, to enter with notice at any reasonable hour of the day, for the purpose of maintenance, inspection, repair, replacement, or improvements within the units or the common elements, or to determine in the case of emergency, the circumstances threatening any unit(s) or the common elements, or to determine compliance with the provisions of this Declaration, the Bylaws, or the Rules and Regulations promulgated thereunder.

(2) In the event a unit owner fails to maintain the unit as required herein or makes any structural addition or alteration to the common areas without the required written consent of the Board of Directors, or fails to permit entrance to the Board or the Manager as required above, the Manager on behalf of the Board of Directors or Association, or the Board on its own behalf, shall have the right to proceed either at law or in equity for whatever appropriate remedy the circumstances require. In lieu thereof and/or in addition to this remedy, the Association, through the Board of Directors, shall have the right and power to levy an assessment against the owner of the unit and the unit itself for such necessary sums to remove any unauthorized structure or alteration and to restore the property to its former condition. The Association and/or the Board of Directors on its behalf, shall have the further right and power to have its employees or agents, or any subcontractor appointed by it, enter the unit at any and all reasonable times, to do such work as is deemed necessary by the Board to enforce compliance with the provisions hereof.

C. Limitation of Liability:

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

elements or other owners or persons.

15. ASSESSMENTS

Liability, Lien and Enforcement

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

A. All assessments levied against the Unit Owners and their Units shall be uniform and, unless specifically otherwise provided for in this Declaration, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Condominium Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Condominium Units as the undivided interest in the Common Property appurtenant to each Condominium Unit bears to the total undivided interest in the Common Property appurtenant to all Condominium Units. Should the Association be the Owner of a Condominium Unit or Units, the assessment which would otherwise be due and payable on account of such Unit or Units, reduced by the amount of income which may be derived from the leasing of such Unit or Units by the Association, shall be apportioned and assessment therefor levied ratably among the owners of all Units which are not owned by the Association, based upon their proportionate interests in the Common Property exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

B. Assessments provided for herein shall be payable in monthly installments, or in such other installments and at such other times as may be determined by the Board of Directors of the Association. Such assessments shall commence for each Unit upon the recording in the Durham County Public

Registry of the deed from the Developer conveying the first Unit. Units not conveyed by the Developer which remain unoccupied shall be assessed at a rate equal to 25% of the rate of Units conveyed for the first 60 days from the commencement of assessments. Thereafter all units shall be fully assessed.

C. The Board of Directors of the Association shall establish an Annual Budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of the sale of the first Condominium Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account projected anticipated income which is to be applied in reduction of the amounts acquired to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph "D" hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors, copies of said budget shall be delivered to each owner of a Condominium Unit and assessment for that budget year shall be established based on that budget, although the delivery of a copy of the budget to each owner shall not affect the liability of any Unit Owner for such assessment. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be insufficient to pay the costs of operation, maintenance and management of the Condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessment or assessments it may deem to be necessary.

D. The Board of Directors of the Association, in establishing the Annual Budget, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Property, which Capital Improvement and Replacement Fund (Capital Improvement Fund) shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Property, as well as the replacement of personal property which may constitute a portion of the Common Property held for the joint use and benefit of the Unit Owners. The amount to be allocated to the Capital

Improvement Fund may be established by the Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Property. The amount collected for the Capital Improvement Fund shall be kept in a separate account by the Association and such monies shall be used only to make capital improvements to the Common Property. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his proportionate interest in the Common Property as set out in Exhibit "C," and the Association shall annually notify each Unit Owner of the amount of his balance in the Capital Improvement Fund account. However, such balance shall not be subject to withdrawal by a Unit Owner. A Working Capital Fund shall be established for the initial months of operation in an amount equal to at least two months' estimated common area charge for each Unit. Each Unit's share of the Working Capital Fund must be collected and transferred to the Association at the time of closing of the sale of each Unit and maintained in a segregated account for the use and benefit of the Association. The contribution to the Working Capital Fund for each unsold Unit shall be paid to the Association within 60 days after the date of recording of the conveyance of the first Unit. Amounts paid to this fund shall not be considered as advance payment of regular assessments.

E. All moneys collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the Bylaws of the Association. As monies for any assessment are paid into the Association by any owner of a Condominium Unit, the same may be commingled with monies paid to the Association by the other owners of Condominium Units. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of the Common Property, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership

Interest therein, except as an appurtenance to his Condominium Unit. When the owner of a Condominium Unit shall cease to be a member of the Association by reason of his divestment of ownership of such Condominium Unit, by whatever means, the Association shall not be required to account to such owner for any share of the fund or assets of the Association, or which have been paid to the Association by such owner, as all monies which any owner has paid to the Association shall be and constitute an asset of the Association.

F. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or installment thereof due to the Association shall bear interest at the highest rate allowed by law until such delinquent assessment or installment and all interest due thereon has been paid in full to the Association.

G. The Unit Owner or Owners shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Condominium Unit while such party or parties are the owner or owners of a Condominium Unit. In the event that any Unit Owner or Owners are in default of payment of any assessment or installment thereof, such owner or owners shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all costs of collecting such assessment or installment and interest thereon, including a reasonable attorney's fee, whether suit be brought or not.

H. No Unit Owner may exempt himself from liability for any assessment levied against him or his Unit by waiver of the use or enjoyment of any of the Common Property, or by abandonment of the Condominium Unit or in any other way.

I. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and maintenance results in benefit to all of the Unit Owners, and that the payment of such common expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Condominium Unit and its appurtenant

undivided interest in the Common Property, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against each owner and his Unit, which lien shall also secure and does secure all costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing this lien upon said Condominium Unit and its appurtenant undivided interest in the Common Property. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the owner of any Condominium Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a Receiver for said Condominium Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens and encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the highest rate allowed by law on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Condominium Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Condominium Unit expressly subject to such lien rights of the Association.

J. The lien herein granted to the Association shall be enforceable from and after the time of recording a claim of lien on the Public Records of Durham County, North Carolina, which claim shall state the description of the Condominium Unit encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided have been paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claim of lien shall be signed and verified by an officer or agent of the

Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, a deed of foreclosure under power of sale or any other transfer in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

K. Whenever any Condominium Unit may be leased, sold or mortgaged by the owner thereof, the Association, upon written request of the Unit owner, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Condominium Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the owner of said Condominium Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the rent or the proceeds of such purchase or mortgage transaction shall be applied by the lessee, purchaser or mortgagee first to the payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase or mortgage proceeds to the owner of any Condominium Unit who is responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Condominium Unit, the purchaser thereof shall be jointly and severally liable with seller for all unpaid assessments against seller made prior to the time of such voluntary conveyance, without prejudice to the rights of the purchaser to recover from seller the amounts paid by the purchaser therefor.

Institution of an action at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure, action, enforcement of the collection of any sums remaining due, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to the Association.

16. INSURANCE

A. Ownership of Policies: All insurance policies upon the condominium property shall be purchased by the Association or Manager for the benefit of the Association, the unit owners, and their mortgagees as their interest may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of unit owners. Unit owners may, at their option, obtain additional insurance coverage at their own expense upon their own personal property, for their personal liability, business interruption and such other coverage as they may desire.

B. Coverage: All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, or by 90% co-insurance blanket coverage or by such other form of policy as the Board of Directors annually determines will most reasonably provide the funds necessary to repair or reconstruct the insured improvements. Such coverage shall afford protection against (1) loss of damage by fire and other hazards covered by a standard extended coverage endorsement, and (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including, but not limited to, vandalism and malicious mischief. It is expressly understood that Bay Creek Association, Inc. and the unit owners each have an insurable interest in the interior horizontal and vertical boundaries of each unit including the interior walls, ceilings and floors, as well as all plumbing and electrical fixtures. The Association shall be responsible under its master policy for housing all the common areas, as well as the interior horizontal and vertical boundaries of each unit and the interior walls, ceiling and floors, and all plumbing and electrical fixtures. The unit owners shall be named as

additional insureds on the Association's master policy. Each unit owner shall be responsible for providing other insurance including, but not limited to, contents coverage for personal property located in the unit or limited common area as well as insuring any betterments or improvements the unit owner may make within these areas.

C. Public Liability Insurance: Public liability insurance shall be secured by the Association or Manager in such amount and with such coverage as shall be deemed necessary by the Board of Directors, including, but not limited to, an endorsement to cover liability of the unit owners as a group or to a single unit owner. There shall also be obtained such other insurance coverage as the Board of Directors or Manager shall determine from time to time to be desirable or necessary.

D. Premiums: Premiums upon insurance policies purchased by the Association or Manager shall be paid by the Association and chargeable to the Association as a common expense.

E. Proceeds: All insurance policies purchased by the Association or Manager shall be for the benefit of the Association and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The Board of Directors of the Association is hereby irrevocably appointed Agent for each unit owner and his mortgagee as their interests may appear for the purpose of compromising and settling claims arising under insurance policies purchased by the Manager or Board of Directors for the benefit of the Association and the unit owners; said Board of Directors or its designee is hereby further empowered to execute and deliver releases to the insurance carrier upon the payment of claims. The Board of Directors' duty or its designee's duty upon receipt of such proceeds shall be to hold the same in trust for the purposes elsewhere stated herein or in the Bylaws for the benefit of the Association and the unit owners and their mortgagees, as their interests may appear.

F. In the Event a Mortgage Endorsement Has Been Issued as to a Unit: The share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear.

G. Additional Coverage: Each individual unit owner shall be responsible for purchasing, at his own expense, including, but not limited

to, liability insurance to cover accidents occurring within his own unit, coverage upon his own personal property, business interruption, fire and other hazard, mortgage insurance, and such other insurance as the unit owner deems necessary or desirable.

17. DISTRIBUTION OF INSURANCE PROCEEDS

Proceeds of insurance policies shall be payable to the Bay Creek Association, Inc., as insurance trustee and shall be distributed to or for the benefit of the beneficial owners in the following manner:

A. Expense of the Trust: All expenses of the insurance trustee shall be first paid or provision made therefor.

B. Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as determined in Paragraph 16 hereof. Any proceeds remaining after defraying such cost shall be distributed as surpluses to the beneficial owners of the damaged units pursuant to Paragraph 13 hereof.

C. Failure to Reconstruct or Repair: If it is determined, as provided in Paragraph 18 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed as surpluses to the beneficial owners of the damaged units thereof pursuant to Paragraph 13 hereof.

D. Mortgagees: In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

18. DAMAGE AND DESTRUCTION

A. Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(1) Common Element: If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

(2) Condominium Units:

(a) Partial destruction: If the damaged improvement is a condominium unit, and if termination as provided in subparagraph (b) below does not take place, the damaged property shall be reconstructed or repaired unless within sixty days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated.

(b) Total destruction: If more than two-thirds (2/3) of the condominium units are destroyed and the owners of three-fourths (3/4) of the units in the entire condominium should determine not to proceed with repair or restoration, then the procedure set forth in Section 47A-25 of the North Carolina Statutes, and any amendments thereto, shall take place.

B. Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is a condominium unit, by the owners of all damaged units therein which approvals shall not be unreasonably withheld.

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

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

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

proportion to the costs of reconstruction and repair of their respective units. Such assessments on account of damage to common elements shall be in proportion to the unit owner's share in the common elements.

19. USE AND OCCUPANCY

A. Use: The buildings and each of the units shall be used for residential purposes only. Any unit owner may delegate, in accordance with this Declaration and the Bylaws of the Association, his rights of possession, use, and enjoyment of his unit and the common area and facilities to his invitees, employees, guests, and tenants.

B. Nuisance: The unit owner shall not permit or suffer anything to be done or kept in or about his unit which will increase the rate of insurance on the building, or which will obstruct or interfere with the rights of other unit owners or annoy them by unreasonable noises, odors, or otherwise. No unit owner shall commit nor permit any nuisance, immoral, or illegal act in or about the building.

C. Exterior: It shall be the responsibility of each unit owner and the Board of Directors to prevent the development of any unclean, unsightly, or unkept condition of the property which shall tend to decrease the beauty of the neighborhood either as a whole or the specific area.

The unit owner shall not cause anything to be hung, displayed, or placed on the exterior walls, doors, balconies, chimneys, windows, or any other exterior part of the building without the prior written consent of the Board of Directors. No person may place or cause to be placed any communications aerial, television aerial, or similar device on any portion of the condominium property without the written consent of the Board.

D. Signs: No signs (including "for rent", "for sale", and other similar signs) or property identification signs shall be erected or maintained on any unit except with written permission of the Board of Directors, or except as may be required by legal proceedings.

E. Structures, Outbuildings, and Trailers: No structure of a temporary character shall be placed upon the property at any time, provided, however, that this prohibition shall not apply to shelters used by a contractor during the construction or repair of the multi-unit buildings, so long as these latter temporary shelters are not, at any time, used as residences, offices, or for business purposes of a unit owner or permitted to remain on the building plot after completion of said construction or repair.

No mobile home of any kind, trailer, tent, barn, storage shed, garage, tree house, or other similar outbuilding or structure, regardless of purpose or function, shall be placed on the property at any time, either temporarily or permanently, except that the Developer may have temporary construction offices located on the property.

F. Rules and Regulations: No person shall use the common elements, or any part thereof, or a condominium unit, or the condominium property, or any part thereof, or any other property the use of which has been acquired for the benefit of the Association, or the unit owners, in any manner contrary to or not in accordance with the Rules and Regulations pertaining thereto, as from time to time may be promulgated by the Board of Directors or the Association.

G. Breach of Restrictions: In the event of a violation or breach of any of the restrictions contained in this Declaration or of any other covenants contained in this Declaration, the Bylaws or Rules and Regulations of the Association by any unit owner, tenant, or agent of such owner, or any of them, jointly or severally, the Association shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of this Declaration, the Bylaws or Rules and Regulations of the Association. In addition to the foregoing, the Board of Directors shall have the right whenever there shall have been any violation of these restrictions, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the unit owner, if after thirty (30) days' written notice of such violation it shall not have been corrected by the unit owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation or conditions in this Declaration, the Bylaws, or Rules and Regulations however long continued, shall not be deemed a waiver of the right to do so thereafter, as to the same breach or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. The invalidation by any court of any restrictions in this Declaration, the Bylaws or Rules and Regulations shall in no way affect any of the other restrictions, but they shall remain in full force and effect.

20. UNITS SUBJECT TO DECLARATION

All present and future owners, tenants and occupants of units shall be

subject to, and shall comply with the provisions of this Declaration, the Bylaws and any Rules and Regulations of the Bay Creek Association, Inc., as said Declaration, Bylaws, Rules and Regulations may be amended from time to time. The acceptance of a deed, or the entering into of a lease, or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, Bylaws, and any Rules and Regulations which may be adopted are accepted and ratified by such owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed or conveyance or lease.

21. AMENDMENT OF DECLARATION

A. This Declaration may be amended by the vote of at least 90% of the undivided interests of all unit owners in the common elements as set forth in Exhibit "D", cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws. No such amendment shall be effective until recorded in the Office of the Register of Deeds for the county wherein the property, the subject of this Declaration, is located.

B. Anything contained in this Declaration to the contrary notwithstanding, it is contemplated that the Declarant will construct additional units, which shall be located in one or more additional buildings. However, the total number of units subject to this Declaration, shall not exceed one hundred sixty (160). Declarant shall have the absolute right in its discretion to construct additional units, if any such units are so constructed on the land now owned by the Declarant and contiguous to the land now covered by this Declaration (or contiguous by way of easement) and may be so constructed without the consent of the condominium owners within three (3) years of the date of this instrument, provided that the FHA and the VA determine that the construction is in accord with the general plan heretofore approved by them.

The additions and constructions authorized under this section shall be made by filing of record a supplementary Declaration of Unit Ownership with respect to any such construction and/or additional property which shall extend the scheme of this Declaration of Unit Ownership to such property or by adopting this Declaration of Unit Ownership in whole or in part by reference.

Such supplementary Declaration of Unit Ownership may contain such complementary additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of the added property and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such supplementary Declaration of Unit Ownership revoke, modify, or add to the covenants established by this Declaration within the existing property except that such amendment or supplementary Declaration in addition to enlarging the number of units to be subject to this Declaration may necessarily result in a redetermination of each unit owners' percentage interest in the common areas and facilities shown in Exhibit "D".

22. WAIVER

No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

23. CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

24. LIMITATION OF LIABILITY

A. Limitation upon Liability of Association: Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or by the elements or other owners or persons.

B. Property in Trust: All funds and the titles of all properties acquired by the Association and the net proceeds thereof shall be held in trust for the members in accordance with the provisions of this Declaration and the Bylaws of the Association.

25. MISCELLANEOUS

A. Encroachments: The owners of the respective condominium units agree that if any portion of a condominium unit or common element encroaches upon another, a valid easement for the encroachment and maintenance of same, so long as it stands, shall and does exist. In the event the building is

partially or totally destroyed and then re-built, the owners of the condominium units agree that encroachments on parts of the common elements or limited common elements or condominium units, as described herein, due to construction, shall be permitted, and that a valid easement for said encroachments and the maintenance thereof shall exist.

B. Exemption from Liability: No owner of a condominium unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use and enjoyment of any of the common elements, or by the abandonment of his condominium unit.

C. Merger of Units: Nothing hereinabove set forth in this Declaration shall be construed as prohibiting the Board of Directors of the Association from removing or authorizing the removal of any party wall between any condominium units in order that the said units might be used together as one condominium unit. In such event, all assessments, voting rights, and the share of common elements shall be calculated as if such units were originally designated on the Exhibits attached to this Declaration, notwithstanding the fact that several units are used as one, to the intent and purpose that the unit owner of such combined units shall be treated as the unit owner of as many units as have been so combined. No unit at any time may contain less than six hundred (600) square feet.

D. Construction: Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and plural shall include the singular. The provisions of the Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of condominium property.

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

F. Controlling: This Declaration and Exhibits attached hereto and Amendments hereof, shall be construed and controlled by and under the laws of the State of North Carolina.

G. Covenants: All provisions of this Declaration and Exhibits attached hereto and amendments hereof, shall be construed to be covenants running with the land, and of every part thereof and interest therein, including but not limited to every unit and the appurtenances thereto, including the common elements and every unit owner and claimant of the property or any part thereof, or of any interest therein, and his heirs, executors, administrators, tenant, successors, and assigns, shall be bound by all of the provisions of said Declaration and Exhibits annexed hereto and Amendments thereof.

H. Invalidation: If any provision of this Declaration, Bylaws and the Exhibits attached hereto, the Amendments hereof, or of the Unit Ownership Act Chapter 47A of the General Statutes, or any section, sentence, clause, phrase, or word, or the application thereof, in any circumstances is held invalid, the validity of the remainder of this Declaration, Bylaws, the Exhibits attached hereto, the Amendments hereof, or the Unit Ownership Act, shall be not affected thereby.

I. Refuse Collection: The development shall be serviced by City of Durham refuse collection by providing dumpsters at centrally located positions thereby allowing for bulk collection of said refuse.

DECLARANT:

ROBERTS CONSTRUCTION COMPANY,
A NORTH CAROLINA CORPORATION

BY: Bobby R. Roberts
Bobby R. Roberts, President



TESTED TO:
Ob Morgan
Secretary

NORTH CAROLINA
DURHAM COUNTY

FILED
BOOK 1314 PAGE 168-221

SEP 30 11 02 AM '86

RUTH C. GARRETT
REGISTER OF DEEDS
DURHAM COUNTY, NC

I, Marie W. Snipes, a Notary Public, certify that W. B. Morgan personally came before me this day and acknowledged that he is the Asst. Secretary of Roberts Construction Company, a North Carolina corporation, and that authority duly given and as the Asst. of the corporation, the foregoing instrument was signed in its name by W. B. Morgan President, sealed with its corporate seal and attested by him self as Secretary.



WITNESS my hand and official stamp or seal, this 22nd day of September, 1986.

Marie W. Snipes
Notary Public

My commission expires:
June 15, 1987

State of North Carolina-Durham County
The foregoing certificate(s) of Marie W. Snipes
A Notary (Notaries) Public for the Designated Government
units is (are) certified to be correct.

This the 30th day of Sept, 1986
Ruth C. Garrett Pamela H. Ross
Register of Deeds By: Assistant, Deputy
Register of Deeds

ANNEX A

PROPERTY OF ROBERTS CONSTRUCTION COMPANY, INC.
BAY CREEK CONDOMINIUMS

BEGINNING at a concrete monument on the west side of Haverford Street at its southern terminus and running thence from said beginning point along and with the southern terminus of said Haverford Street, South 80° 55' 19" East 26.25 feet to a stake on the east side of Haverford Street at its southern terminus; thence South 78° 16' 14" East 88.1 feet to a stake; thence South 78° 22' 30" East 138.2 feet to a stake; thence North 10° 22' 15" East 166.76 feet to a stake on the south side of Hudson Avenue; thence along and with the south side of said Hudson Avenue, South 79° 37' 45" East 190.04 feet to a stake, the northwest corner of the Property of Downey Investment Corporation; thence with the west line of said Downey Investment Corporation, South 10° 18' 15" West 170.83 feet to a stake, the southwest corner of said Downey Investment Corporation; thence South 78° 22' 15" East 100.04 feet to a stake; thence South 79° 01' 15" East 130.83 feet to a stake on the west side of Buchanan Boulevard; thence along and with the west side of said Buchanan Boulevard, South 10° 46' 45" West 252.6 feet to a control point; thence continuing with the west side of Buchanan Boulevard, South 10° 46' 45" West 32.89 feet to a stake; thence in a general southwesterly direction along a curve having a radius of 1,436.68 feet, a distance of 180.95 feet to a point, said point being 1.0 feet north of control access fence for the northeastern side of Interstate 1-85; thence along and with a line lying one foot north of said control access fence for the northeast side of said Interstate 1-85, the following courses and distances: North 55° 55' 28" West 36.45 feet to a point; North 53° 55' 28" West 92.05 feet to a point; North 52° 02' 22" West 100.28 feet to a point; North 50° 09' 17" West 100.09 feet to a point; North 47° 58' 45" West 100 feet to a point; North 46° 01' 55" West 100.04 feet to a point; North 43° 37' 55" West 100.26 feet to a point; North 41° 51' 26" West 99.21 feet to a point; North 67° 16' 17" West 56.43 feet to a point; thence North 39° 27' 26" West 81.92 feet to a stake; thence South 83° 04' 41" East 76.51 feet to a stake; thence North 06° 46' 27" East 75 feet to a stake; thence South 83° 21' 01" East 124.76 feet to a stake on the west side of Haverford Street; thence along and with the west side of said Haverford Street, South 06° 55' 40" West 148.51 feet to a concrete monument, the point and place of BEGINNING, and being that property shown on boundary survey, Property of Roberts Construction Co. as per plat and survey thereof by Credle Engineering Company, dated January 20, 1984, to which plat reference is hereby made for a more particular description of same. See also Plat Book 112 at Page 83, Durham County Registry for a more particular description of same.

EXHIBIT "B"

BAY CREEK CONDOMINIUMS

The project consists of three-story buildings without basements numbering one hundred twenty six (126) units.

The buildings are primarily constructed on concrete slab supporting wood stud framework faced by exterior siding and interior sheet rock walls with roof of asphalt shingles on wood trusses.

The units are numbered as follows: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number A; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number B; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number C; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number D; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number E; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number F; and 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number G. Units 1, 6, 7, 12, 13 and units 2, 3, 4, 5, 8, 9, 10, 11, 14, 15, 16, and 17 in each building consists of approximately seven hundred (700) square feet and the units are subdivided into the number of rooms as shown on the plans filed with the Durham County Register of Deeds and being referenced in Exhibit "C" to the Bay Creek Declaration. All units have direct access to common areas leading to adjacent parking areas as shown on drawing of Bay Creek Condominiums all as shown in the Office of Register of Deeds of Durham County in Condo Drawer 4 at Page 20 to which reference is hereby made for a more particular description of same.

EXHIBIT "C"

BAY CREEK CONDOMINIUMS

The individual dwelling units which become a part of Bay Creek Condominiums are those units shown as: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number A; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number B; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number C; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number D; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number E; 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number F; and 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18 in Building Number G of Bay Creek Condominiums all as shown in the Office of Register of Deeds of Durham County in Condo Drawer 4 at Page 20 to which reference is hereby made for a more particular description of same.

EXHIBIT "D"

BAY CREEK CONDOMINIUMS

The common areas and facilities consist of all parts of the property described in Exhibit "A" and "B" other than the individual dwelling units therein as described in Exhibit "C" as shown as limited common areas and walkways, parking lots and landscape grass, shrubbery and trees. All areas of the described property not within any units shall be common areas; and all portions of any building or other improvement not included within a unit shall be a common facility which may or may not be a limited common area as set forth in the Bay Creek Condominiums Declaration. The common facilities shall include all installation, items and equipment for utility service to more than one unit, and shall also include tangible personal property required for the maintenance and operation of the condominium even though owned by the Association.

Each unit shall have a one-one hundred twenty-sixth (1/126) undivided interest in the common areas and facilities as follows:

Building Number A:

Units 1-18 inclusive - one-one hundred twenty-sixth (1/126) for each unit.

Building Number B:

Units 1-18 inclusive - one-one hundred twenty-sixth (1/126) for each unit.

Building Number C:

Units 1-18 inclusive - one-one hundred twenty-sixth (1/126) for each unit.

Building Number D:

Units 1-18 inclusive - one-one hundred twenty-sixth (1/126) for each unit.

Building Number E:

Units 1-18 inclusive - one-one hundred twenty-sixth (1/126) for each unit.

Building Number F:

Units 1-18 inclusive - one-one hundred twenty-sixth (1/126) for each unit.

Building Number G:

Units 1-18 inclusive - one-one hundred twenty-sixth (1/126) for each unit.

document certification

these Condominium documents have been certified for recordation by the city of durham subdivision review board

by: John A. Parkham chairman

date: 9/26/86

approval void 30 days from said date.

EXHIBIT E

BYLAWS

OF

BAY CREEK ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

1. Name: The name of this Association shall be Bay Creek Association, Inc.
2. Principal Office: The principal office of the Association shall be located at 411 Andrews Road, Unit 110, Durham, North Carolina 27705, or at such other location as may from time to time be determined by the Board of Directors of the Association.
3. Registered Office: The registered office of the Association may be, but need not be, identical with the principal office. The Association may have offices at such other places within Durham County, North Carolina, as the Board of Directors may from time to time determine.

ARTICLE II

PLAN OF UNIT OWNERSHIP

1. Unit Ownership: The property located in the County of Durham, State of North Carolina, and more particularly described in the Declaration to which these Bylaws are attached has been submitted to the provisions of Chapter 47A of the North Carolina General Statutes entitled "Unit Ownership Act" by the Declaration recorded in the Office of the Register of Deeds of Durham County, State of North Carolina, simultaneously herewith, and shall be known as BAY CREEK CONDOMINIUMS (hereinafter sometimes called the "Condominium").
2. Applicability of Bylaws: The provisions of these Bylaws are applicable to the property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the land, the buildings and all other improvements thereon (including the units, the common areas and facilities and the limited common areas and facilities), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, and fixtures, intended for use in connection therewith.
3. Application: All present and future owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use

the facilities of the property in any manner are subject to the Declaration, these Bylaws and Rules and Regulations made pursuant hereto, and any amendment to the Declaration, these Bylaws or the Rules and Regulations upon the same being duly adopted.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that these Bylaws (and any Rules and Regulations made pursuant hereto) and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

4. Members Qualifications: The members of the corporation shall consist of all of the record owners of units in the Bay Creek Condominium. Purchase or other acquisition of the freehold interest of a unit in said Condominium shall automatically make the owner thereof a member of the Association upon recordation of the Deed.

ARTICLE III

ASSOCIATION MEETINGS

1. Membership: The record owners of each unit shall be members and shall have voting rights as hereinafter set forth.

2. Place of Meetings: All meetings of the Bay Creek Association, Inc. (hereinafter referred to as the "Association") shall be held at such place within the State of North Carolina as shall be designated in a notice of the meeting.

3. Organizational Meeting: Until the Developer, Roberts Construction Company, a North Carolina corporation, or its successor, has completed and sold seventy-five (75%) percent of the units of the Condominium project or until March 1, 1986, or until the Developer elects to terminate its control of the Condominium, whichever shall occur first, there shall be no meeting of the members of the Association unless a meeting is called by the Board of Directors.

4. Annual Meetings: An annual meeting of the Association shall be held at 7:00 o'clock p.m. on the 16th day of March of each year for the purpose of electing members of the Board of Directors and for the transaction of such other business as may be properly brought before the meeting.

5. Substitute Annual Meetings: If the annual meeting shall not be held on the day designated by the Bylaws, a substitute annual meeting may be

called in accordance with the provisions of Section 6 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.

6. Special Meetings: Special meetings of the Association may be called at any time by the President, a majority of the Board of Directors or upon written request of not less than 50% in common interest of the unit owners.

7. Notice of Meetings: Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed not less than ten (10) nor more than thirty (30) days before the date thereof, either personally or by mail at the direction of the Board of Directors or unit owners calling the meeting, to each person entitled to vote at such meeting.

In the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless it is a matter other than the election of Directors or which the vote of unit owners is expressly required by the provisions of the North Carolina Unit Ownership Act. In the case of a special meeting, the notice of meeting shall specifically state the purposes for which the meeting is called.

When a meeting is adjourned for thirty (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 (30) 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 effective.

8. Quorum: The presence in person or by proxy at any meeting of the voting members (as defined in the Declaration) having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein or in the Declaration or by North Carolina law, any action may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting. If there is no quorum at the opening of the meeting of the Association, such meeting may be adjourned from time to time by the vote of a majority of the voting members present, either in person or by 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 voting members at a meeting at which a quorum is present may

continue to do business until adjournment, notwithstanding the withdrawal of enough voting members to leave less than a quorum.

9. Voting Rights: The designation of the voting representative and his voting rights are set forth in Paragraph 12 (c)(3) "Operating Entity" of the Declaration. The total number of votes of all voting members shall be 100 and each owner or group of owners (including the Board of Directors, if it or its designee shall then hold title to one or more unit(s) shall be entitled to the number of votes equal to the total of the percentage of ownership in the common areas and facilities applicable to his or their unit ownership.

10. Waiver of Notice: Any unit owner may, at any time waive notice of any meeting of the Association in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a unit owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a unit owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the unit owners are present at any meeting of the Association no notice shall be required and any business may be transacted at such meeting.

11. Informal Action by Unit Owners: Any action which may be taken at a meeting of the Association 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, (that is, the voting members) and filed with the Secretary of the Association to be kept in the Association Minute Book.

12. Fiscal Year: The fiscal year of the Association shall be the calendar year.

13. Order of Business: The order of business at annual meetings of the Association's members, and as far as practical at other meetings of the members shall be:

- (A) Election of Chairman of the meeting.
- (B) Calling of the roll and certifying of proxies.
- (C) Proof of notice of meeting or waiver of notice.
- (D) Reading and disposal of any unapproved minutes.
- (E) Reports of officers.
- (F) Reports of Committees.
- (G) Election of inspectors of election.

- (H) Election of directors.
- (I) Unfinished business.
- (J) New business.
- (K) Adjournment

Until the Developer, Bay Creek, a North Carolina corporation, or its successor, has completed and sold seventy-five (75%) percent of the units, or until March 1, 1986, or until the Developer elects to terminate its control of the Condominium, whichever shall occur first, the proceedings of all meetings of members of the Association shall have no effect unless approved by the Board of Directors. The Developer shall signify its termination of control by advising each of the then unit owners in writing of its intention to do so.

ARTICLE IV

BOARD OF DIRECTORS

1. General Powers: The business and property of the Condominium shall be managed and directed by the Board of Directors or by such Executive Committee as the Board may establish pursuant to these Bylaws.

2. Number, Term and Qualification:

(a) The Initial Board of Directors of the Association, as set forth in the corporate charter shall serve until the Developer has completed and sold seventy-five percent (75%) of the units, or until Developer elects to terminate its control of the Condominium, or until March 1, 1986, (as specified in Article III) whichever shall first occur. In the event of vacancies, the remaining directors shall fill the vacancies; and if there are no remaining directors, the vacancies shall be filled by the Developer.

(b) Upon the occurrence of one of the events in subparagraph (a) above, the size of the Board of Directors may be increased or decreased from time to time upon the affirmative vote of two-thirds (2/3) of the total of the unit owners, provided that said Board shall not be less than three in number. Each Director shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies. Upon termination of control by the Developer, each member of the Board shall be one of the owners or co-owners or a spouse of an owner or co-owner; provided, however, that in the event an owner is a corporation, partnership,

trust or other legal entity other than a natural person or persons, then any officer or director of such corporation, partner of such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board.

3. Election of Directors: Except as provided in Section 5 of this Article, the Directors shall be elected at the annual meeting of the Association; and those persons who receive the highest number of votes shall be deemed to have been elected.

4. Removal: Directors may be removed from office with or without cause by affirmative vote of the unit owners having a majority of the total votes entitled to vote at an election of directors. If any directors are so removed, new directors may be elected at the same meeting.

5. Vacancies: A vacancy occurring in the Board of Directors, including directorships not filled by the unit owners, may be filled by a majority of the remaining Directors, though less than a quorum, or by the sole remaining Director; but a vacancy created by an increase in the authorized number of Directors shall be filled only by election at an annual meeting or a special meeting of unit owners called for that purpose. Voting members may elect a Director at any time to fill any vacancy not filled by the Directors.

6. Compensation: The Board of Directors shall receive no compensation for their services unless expressly allowed by the Board at the direction of the unit owners having two-thirds (2/3) of the total votes.

7. Executive Committee: The Board of Directors may, by resolution adopted by a majority of the number of Directors fixed by these Bylaws, designate two or more Directors to constitute an Executive Committee, which committee to the extent provided in such resolution shall have and may exercise all of the authority of the Board of Directors in the management of the Condominium.

8. Powers and Duties: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things, except such acts as by law or by the Declaration or by these Bylaws may not be delegated to the Board of Directors. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

(a) Operation, care, upkeep and maintenance of the common areas and facilities.

(b) Determination of the common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the property.

(c) Collection of the common charges from the unit owners.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the common areas and facilities, including the employment of a manager for the Condominium property.

(e) With the consent of the unit owners having sixty (60%) percent of the total votes, the adoption and amendment of such reasonable Rules and Regulations as it may deem advisable for the maintenance, conservation, and beautification of the Condominium property, and for the health, comfort, safety and general welfare of the owners and occupants of the said property. Written notice of such Rules and Regulations shall be given to all owners and occupants, and the entire Condominium property shall at all times be maintained subject to such Rules and Regulations.

(f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(g) Purchasing of units at foreclosure or other judicial sales in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of all unit owners.

(h) Selling, mortgaging, voting appurtenant to or otherwise dealing with units acquired by the Board of Directors or its designee, corporate or otherwise, on behalf of all unit owners subject to the Declaration and other applicable restrictions.

(i) Organizing corporations or other entities to act as designees of the Board in acquiring possession or title to units on behalf of all unit owners.

(j) Maintaining and repairing any unit, if such maintenance or repair is necessary in the discretion of the Board or by operation of applicable restrictions to protect the common areas and facilities or any other portion of the building, and an owner of any unit has failed or refused to perform such maintenance or repair within a reasonable

time after written notice of the necessity of said maintenance or repair delivered or mailed by the Board to said owner, provided that the Board shall levy a special assessment against such owner for the costs of said maintenance or repair.

(k) Entering any unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the occupant as practicable, and any damage caused thereby shall be repaired by the Board and such expense shall be treated as a common expense.

(l) Granting easements, signing all agreements, contracts, deeds and vouchers for payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board.

(m) Obtaining of insurance for the Condominium property, including the units, pursuant to the provisions of Paragraph 16 of the Declaration.

(n) Making of repairs, additions and improvements to or alterations of the Condominium property and repairs to and restoration of the said property in accordance with the other provisions of these Bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

9. Managing Agent: The Board of Directors for the Condominium may engage the service of any person, firm or corporation to act as managing agent at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize including, but not limited to, the duties listed in subdivisions (a), (c), (d), (j), (k), (m), (n) of Section 8 of this Article IV. The Board may delegate to the managing agent, all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in subdivisions (b), (e), (f), (g), (h), (i), and (l) of Section 8 of this Article IV.

10. Assessments: The Board of Directors shall make and collect assessments against members to defray the costs and expense of the Condominium properties. The unit owners are bound to contribute pro rata in accordance

with their percentage interest in the common areas and facilities.

11. Regulations: The Board of Directors shall make and amend reasonable Rules and Regulations respecting the use of the Condominium property and the common areas and facilities. Rules and Regulations of the Association, until amended, shall be as set forth in the Schedule "A" attached hereto. Unit owners shall at all times obey such Rules and Regulations and amendments thereto, and use their best efforts to see that they are faithfully observed by lessees, employees, invitees, and persons over whom they have or may exercise control and supervision. It being understood that such Rules and Regulations and amendments thereto, shall apply and be binding upon all unit owners and their tenants. Provisions of the North Carolina Unit Ownership Act pertaining to Rules and Regulations are incorporated herein by reference and shall be deemed a part hereof.

12. Enforcement: The Board of Directors shall enforce by legal means the provisions of the Unit Ownership Act, Declaration of Bay Creek Condominiums, the Articles of Incorporation, these Bylaws and the Rules and Regulations for the use of the Condominium property and the common areas and facilities.

ARTICLE V

MEETINGS OF DIRECTORS

1. Organization Meeting: The organizational meeting of the newly elected members of the Board of Directors shall immediately follow the initial meeting of the unit owners. No notice shall be necessary to the newly elected members of the Board of Directors in order to legally constitute such meeting, providing a quorum shall be present.

2. Regular Meeting: A regular meeting of the Board shall be held immediately after, and at the same place as the annual meeting or substitute annual meeting of the unit owners. In addition, the Board of Directors may provide by resolution the time and place within the State of North Carolina for the holding of a regular meeting of the Board.

3. Special Meeting: Special meetings of the Board of Directors may be called by the Chairman, the President of the Association or by any two Directors. Notice of the meeting shall be given orally or in writing at least 24 hours before the time fixed for the meeting.

4. Notice of Meetings: Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of Directors shall, at least two 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. Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.

5. Waiver of Notice: Any member of the Board of Directors may, at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof except where a director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

6. Quorum: A majority of the number of Directors fixed by these Bylaws as amended from time to time, shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

7. Manner of Acting: Except as otherwise provided in this section, 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.

A vote of a majority of the number of Directors fixed by the Bylaws shall be required to adopt a resolution creating an Executive Committee. The vote of a majority of the Directors then holding office shall be required to adopt, amend, or repeal a Bylaw, provided that no modification of or amendment to the Bylaws shall be effective until recorded in the Office of the Register of Deeds of Durham County, North Carolina. Vacancies in the Board of Directors may be filled as provided in Article IV, Section 5, of these Bylaws.

8. Organization: Each meeting of the Board of Directors shall be presided over by the Chairman of the Board, and in the absence of the

Chairman, by any person selected to preside by vote of the majority of the Directors present. The Secretary, or in his absence, an Assistant Secretary, or in the absence of both the Secretary and Assistant Secretary, any person designated by the Chairman of the meeting, shall act as Secretary of the meeting.

9. Informal Action of 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 of the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

10. Minutes: The Board shall keep written minutes of its proceedings.

11. Fidelity Bonds: The Board of Directors may require all officers and employees of the Condominium handling or responsible for Condominium funds to be covered by an adequate fidelity bond. The premium on such bonds shall constitute a common expense.

12. Liability of the Board: The members of the Board of Directors shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Condominium, except to the extent they are unit owner(s). It is also intended that the liability of any unit owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability thereunder as his interest in the common areas and facilities bears to the interests of all the unit owners in the common areas and facilities. Every agreement made by the Board or by the managing agent on behalf of the Condominium shall incorporate by reference all of the terms and provisions of the said Declaration and these Bylaws. Each unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common areas and facilities bears to the interest of all unit owners in the common areas and facilities.

13. Amendments:

(A) Except as otherwise provided herein, these Bylaws may be amended or repealed and new Bylaws may be adopted by the affirmative vote of

a majority of the directors then holding office at any regular or special meeting of the Board of Directors. However, the Board of Directors shall have no power to adopt a Bylaw: (1) requiring more than a majority of the votes cast to constitute action by the members of the Association, except where higher percentages are otherwise required herein; (2) providing for the management of the Association otherwise than by the Board of Directors or its Executive Committee; (3) increasing or decreasing the number of directors; or (4) classifying and staggering the election of directors.

(B) A resolution amending or repealing the Bylaws may also be proposed by the members of the Association. Members not present in person or by proxy at the meetings considering the amendment may express their approval or disapproval in writing, providing such notice is delivered to the Secretary at or prior to the meeting. Such approval must be by the affirmative vote of at least 60% of the entire membership of the Association.

(C) No amendment shall discriminate against any unit owner or against any unit or class or group of units unless the unit owners so affected shall consent. No amendment shall change any condominium unit nor the share in the common elements appurtenant to it, nor increase an owner's share of the common expenses, nor change the voting rights of the members unless the record owners of the units concerned and all record owners of liens thereon shall join in the execution of the amendment.

(D) A copy of each amendment to the Bylaws shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the public records of Durham County, North Carolina, pursuant to the Unit Ownership Act.

14. Adjourned Meetings: If at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

15. Order of Business: The order of business at the annual director's meeting and as far as practical at other meetings of the directors shall be:

- (a) Calling of roll.
- (b) Proof of due notice of meeting.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers and committees.
- (e) Election of officers.
- (f) Unfinished business.
- (g) New business.
- (h) Adjournment.

ARTICLE VI

OFFICERS

1. Numbers: The officers of the Association shall be a President, who shall be a director, one or more Vice Presidents, a Treasurer, a Secretary and such Assistant Treasurers, Assistant Secretaries and other officers as the Board of Directors may from time to time elect. Any person may hold two or more offices except that the President shall not also be the Secretary or an Assistant Secretary.

2. Election and Term: The officers of the Condominium shall be elected by the Board of Directors. Such elections may be held at the regular annual meeting of the Board. Each officer shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

3. Removal: Any officer or agent elected or appointed by the Board of Directors may be removed by the Board with or without cause; but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

4. Compensation: The compensation of all officers and employees of the Association shall be fixed by the Board of Directors; provided that the Board may delegate authority to fix the compensation of employees to the President.

5. Chairman of the Board: The President and Chairman of the Board shall be the principal officers of the Condominium and, subject to the control of the Board of Directors, shall supervise and control the management of the Condominium. The Chairman shall when present, preside at all meetings of the Board and of the unit owners and, in general, shall perform all duties incident to the office of Chairman of the Board and such other duties as may be prescribed from time to time by the Board.

6. Vice-Chairman: The Vice-Chairman shall, in the absence or disability of the Chairman, have the powers and perform the duties of said office. In addition, each Vice-Chairman shall perform such other duties and have such other powers as shall be prescribed by the Chairman of the Board.

7. President: The President shall be the chief executive officer of the Bay Creek Association, Inc., and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Association all

conveyances, mortgages, deeds of trust, and material contracts, and shall do and perform all acts and things as the Board of Directors may direct from time to time. He shall approve payment of vouchers by initialling the same which shall be authority for the appropriate officer to pay same. The President shall be invited to attend meetings of each special committee, and shall in each case, be an ex-officio member of each committee.

8. Vice Presidents: The Vice President, or the Senior Vice President if there be more than one Vice President, in the absence or disability of the President, shall exercise all of the powers and perform all of the duties of the President or as may be directed by the Board of Directors. If the Board of Directors shall elect more than one Vice President, the Board shall designate the order of seniority of such Vice Presidents.

9. Secretary: The Secretary shall keep accurate records of the acts and proceedings of all meetings of unit owners and Directors. He shall give, or cause to be given, all notices required by law and by these Bylaws. He shall have general charge of the minute books, seal and records of both unit owners and the Board. He shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned him from time to time by the Directors. An Assistant Secretary may be elected who shall in the event of the Secretary's absence or disability perform the duties and functions of the Secretary.

10. Treasurer: The Treasurer shall have custody of all Condominium funds and securities and shall receive, deposit or disburse the same under the direction of the Board of Directors. He shall keep full and accurate accounts of the finances of the Condominium in books especially provided for that purpose. He shall cause a true statement of its assets and liabilities as of the close of each fiscal year, and of the results of its operations and of changes in surplus for such fiscal year, all in reasonable detail, to be prepared and distributed to all unit owners and members of the Board of Directors on or before the 15th day of the third month following the close of each fiscal year. The statement so filed shall be kept available for inspection by any unit owner for a period of three (3) years. The Treasurer shall also prepare and file all reports and returns required by Federal,

State or local law and shall generally perform all other duties as may be assigned to him from time to time by the Chairman of the Board or the Board of Directors.

11. Assistant Secretaries and Treasurers: The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary and the Treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall in general perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the Chairman of the Board or the Board of Directors.

ARTICLE VII

FISCAL MANAGEMENT

1. Fiscal Management: The provisions for the financial management of the Association set forth in the Declaration, as amended, and the Articles of Incorporation, as amended, shall be supplemented by the following provisions.

2. Accounts: The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be common expenses:

(A) "Current expenses," which shall include all receipts and expenditures within the fiscal year for which the budget is made including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or to additional improvements. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses of the succeeding year.

(B) "Reserve for deferred maintenance," which shall include funds for maintenance items that occur less frequently than annually.

(C) "Reserve for replacement," which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.

(D) "Betterments," which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the condominium elements.

3. Budget: The Board of Directors shall adopt a budget for each fiscal year which shall include the estimated funds required to defray the common expense and to provide and maintain funds for the foregoing accounts and reserves in accordance with generally accepted accounting principles as follows:

(A) "Current expenses," the amount of which shall not exceed by 15% the amount budgeted for this account for the prior year.

(B) "Reserve for deferred maintenance," the amount of which shall not exceed 10% of the amount budgeted for this account for the prior year.

The amount of each budgeted item may be increased over the foregoing limitations when approved by unit owners entitled to cast not less than 51% of the votes of the entire membership of the Association. Provided, however, that until the Developer of the Condominium has completed all of the contemplated improvements and closed the sale of not less than seventy-five percent (75%) of the units, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur, the Board of Directors may omit from the budget all allowances for contingencies and reserves. Provided, further, that the first Board of Directors elected by the members of the Association may fix the budget for the first year at any level the Directors may determine. Thereafter, the restrictions on increases in the budget in paragraphs (A) and (B) above will be effective.

Copies of the Budget and proposed assessments shall be transmitted to each unit owner at least twenty (20) days prior to the annual meeting of Association members.

4. Determination of Common Expenses and Fixing of Common Charges: The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the unit owners to meet the common expenses of the Condominium, and allocate and assess such common charges among the unit owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of the Declaration. The common expenses may also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the Condominium property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase by the Board of Directors or its designee, on behalf of all unit owners, of any unit which is

to be sold at a foreclosure or other judicial sale. The Board of Directors shall advise all unit owners promptly in writing of the amount of common charges payable by each of them, respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each budget on which such common charges are based to all unit owners.

5. Payment of Common Charges: All unit owners shall be obligated to pay the common charges assessed by the Board of Directors pursuant to the provisions of Section 10 of Article IV at such time or times as the Board shall determine.

No unit owners shall be liable for the payment of any part of the common charges assessed against his unit subsequent to a sale, transfer or other conveyance by him of such unit, together with his interest in the common areas and facilities as defined in the Declaration. A purchaser of a unit shall be jointly and severally liable with the seller for the payment of common charges assessed against such unit prior to the acquisition by purchaser of such unit without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefor. Provided that a mortgagee or other purchaser of a unit at a foreclosure sale of such unit shall not be liable for and such unit shall not be subject to a lien for the payment of common charges assessed prior to the foreclosure sale. Such unpaid common charges shall be deemed to be common charges collectible from all of the unit owners including such purchaser, his successor and assigns.

6. Collection of Assessments: The Board of Directors shall assess common charges against the unit owners from time to time and at least annually and shall take prompt action to collect any common charge due from any unit owner which remains unpaid for more than thirty (30) days from the due date for payment thereof.

7. Default in Payment of Common Charges: In the event of default by any unit owner in paying to the Board of Directors the common charges as determined by the Board, such unit owner shall be obligated to pay interest at the maximum legal rate on such common charges from the due date thereof, (but not to exceed the monthly rate of one and one-half percent (1-1/2%)), together with all expenses, including attorneys' fees (if permitted by law), incurred by the Board in any proceeding brought to collect such unpaid common charges. The Board shall have the right and duty to attempt to recover such

common charges, together with interest thereon, and the expenses of the proceeding, including attorneys' fees in any action to recover the same brought against such unit owner, or by foreclosure of the lien on such unit in like manner as a note, deed of trust or mortgage of real property,

8. Foreclosure of Liens for Unpaid Common Charges: In any action brought by the Board to foreclose on a unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all unit owners, or on behalf of any one or more individual unit owners if so instructed, shall have the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same, subject, however, to applicable restrictions of record and the provisions of the Declaration. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

9. Statement of Common Charges: The Board of Directors shall promptly provide any unit owner so requesting the same in writing, with a written statement of all unpaid common charges due from such unit owner.

10. Abatement and Enjoinment of Violations by Unit Owners: The violation of any Rule or Regulation adopted by the Board or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the unit in which or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

11. Maintenance and Repairs: (a) All maintenance and any repairs to any unit, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common areas and facilities contained therein and not necessitated by the negligence, misuse or neglect of the owner of such unit) shall be made by the owner of such unit. Each unit owner

shall be responsible for all damages to any and all other units and/or to the common areas and facilities that his failure so to do may engender; (b) All maintenance, repairs and replacements to the common areas and facilities, whether located inside or outside of the units (unless necessitated by the negligence, misuse or neglect of a unit owner, in which case such expense shall be charged to such unit owner), shall be made by the Board and be charged to all the unit owners as a common expense.

12. Restrictions as to Use: The use of the property of the Condominium shall be in accordance with the following provisions:

(a) Each of the units shall be occupied only for residential purposes, and shall not be used for any purpose which is not permissible under applicable zoning regulations. No unit may be divided into smaller units or any portion thereof sold without first amending the Declaration. No unit may contain less than eight hundred fifty (850) square feet.

(b) The common elements shall be used for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the units.

(c) No use or practice shall be permitted on the property which is the source of annoyance to unit owners or which interferes with the peaceful possession and proper use of the property by the unit owners. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. It shall be the responsibility of each unit owner and the Board of Directors to prevent the development of conditions which render the property or the building unclean, unsightly or unkept or which substantially decrease the beauty of the area as a whole. No unit owner shall permit any use of his unit or of the common elements which will increase the rate of insurance upon the Condominium property. No immoral, improper, offensive, or unlawful use shall be made of the Condominium property or any part thereof. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification, or repair of the Condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(d) Until the Developer has completed and sold one hundred sixty (160) units, neither the unit owners nor the Association shall interfere with the sale of additional units. The Developer may make such use of the unsold units and common areas as may facilitate such completion and sale, including but not limited to the rental of same, the showing of the property, and the display of "For Sale" and "For Rent" signs.

13. Right of Access: A unit owner shall grant a right of access to his unit to the managing agent and/or any other person authorized by the Board of Directors or the managing agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his unit and threatening another unit or a common area and facility, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common areas and facilities in his unit or elsewhere in the building or to correct any condition which violates the provisions of any mortgage covering another unit, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether the unit owner is present at the time or not.

14. Rules of Conduct: Rules and regulations concerning the use of the units and the common areas and facilities may be promulgated and amended by the Board. Copies of such rules and regulations shall be furnished by the Board to each unit owner prior to the time when the same shall become effective.

15. Equipment: Each unit owner shall own and be responsible for the maintenance, repair and replacement of the equipment within his unit including but not limited to the following: hot water heater, electric panel and service, furnace, air conditioner, plumbing fixtures and pipes or drains which may become clogged.

16. Water and Sewer Charges: Water and sewer service shall be provided by the City of Durham directly to each unit through a separate meter, and each unit owner shall pay his bill for water and related sewer service. The water and sewer service for the common areas and facilities shall be paid for as a common expense.

17. Electricity: Electricity shall be supplied by the public utility company serving the area directly to each unit through a separate meter, and

each unit owner shall be required to pay the bills for electricity consumed or used in his unit. The electricity serving the common areas and facilities shall be separately metered, and the Board of Directors shall pay all bills for electricity consumed in any portions of the common areas and facilities as a common expense.

18. Emergency Assessments: Assessments for common expenses of emergencies that cannot be paid from the annual assessments for common expense shall be made only after notice of the need for such is given to the unit owners concerned. After such notice and upon approval by persons entitled to cast more than one-half of the votes of the unit owners concerned, the assessment shall become effective, and it shall be due after 30 days notice in such manner as the Board of Directors of the Association may require in the notice of assessment.

19. Bank Depository: The depository of the Association shall be such bank or banks (including savings and loan associations) as shall be designated from time to time by the Directors and in which the moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by checks signed by such person or persons as are authorized by the Directors.

ARTICLE VIII

RECORDS AND AUDITS

1. Records: The Board of Directors shall keep detailed records of the acts of the Board and the managing agent, minutes of the meetings of the Board, minutes of the meetings of the unit owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each unit which, among other things, shall contain the amount of each assessment of the common charges against such unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. The financial record and books of account shall be available for examination by all the unit owners, their duly authorized agents or attorneys at convenient hours on working days that shall be set and announced for general knowledge. A written report summarizing all receipts and expenditures of the Condominium shall be rendered by the Board to all unit owners on or before the 15th day of the third month following the close of each fiscal year covering the preceding year. In addition, an

annual report of the receipts and expenditures of the Condominium, prepared by a certified public accountant selected by the Board, shall be rendered by the Board to all unit owners and to all mortgagees of units who have requested the same, promptly after the end of each fiscal year.

ARTICLE IX

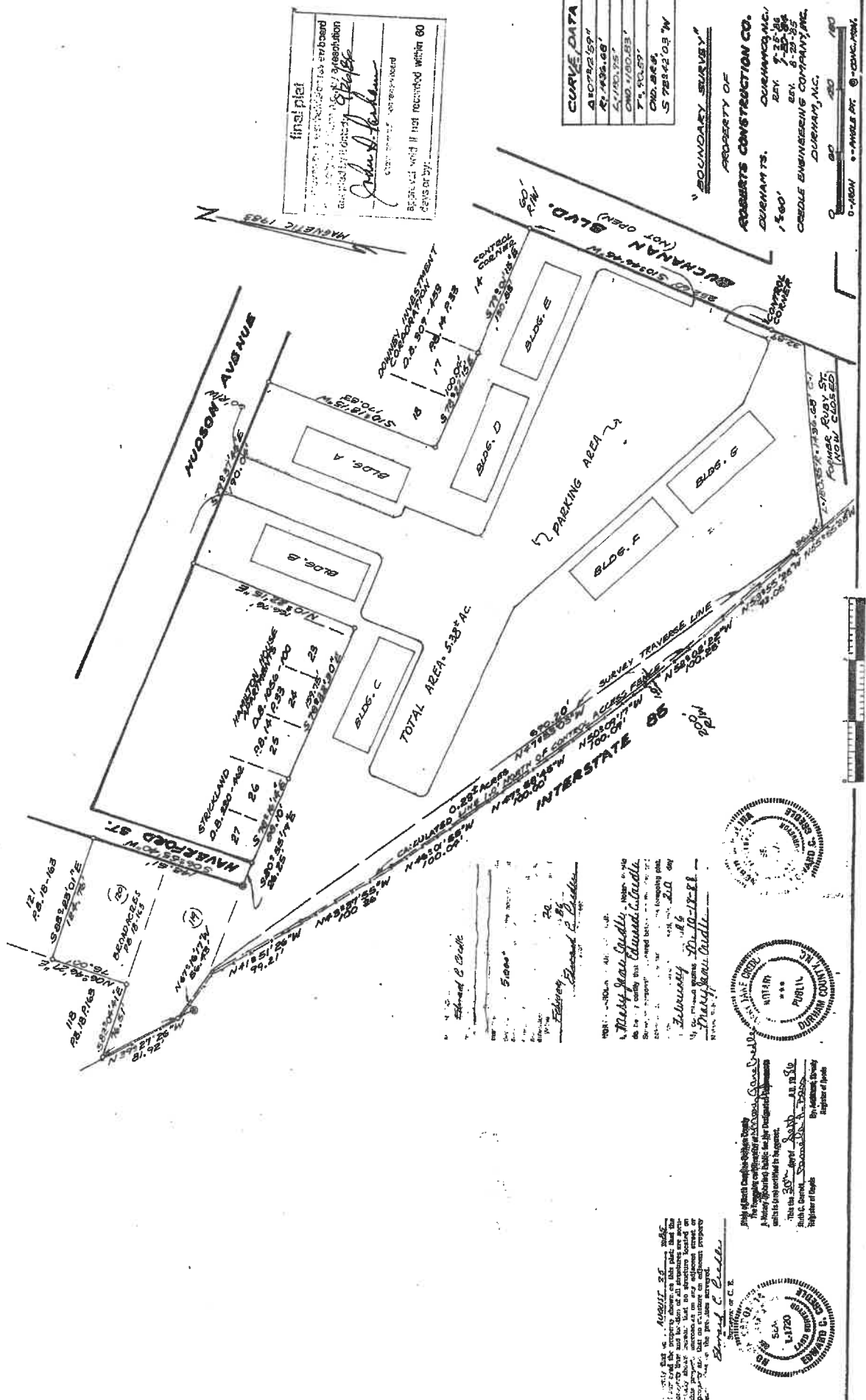
PARLIAMENTARY RULES

1. Robert's Rules: Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, Articles of Incorporation, or these Bylaws.

The foregoing were adopted as the Bylaws of Bay Creek Association, Inc., a corporation organized under the laws of the State of North Carolina, at the first meeting of the Board of Directors on the _____ day of _____, 1985.

Secretary

FILED PAGE 52
 BOOK 113 PAGE 52
 SEP 30 9 30 AM '88
 RUTH C. GARETT
 DEPUTY CLERK
 DURHAM COUNTY NC



Edward C. Bell
 Surveyor
 February 10, 1988

Harry J. Caudle
 Surveyor
 February 10, 1988

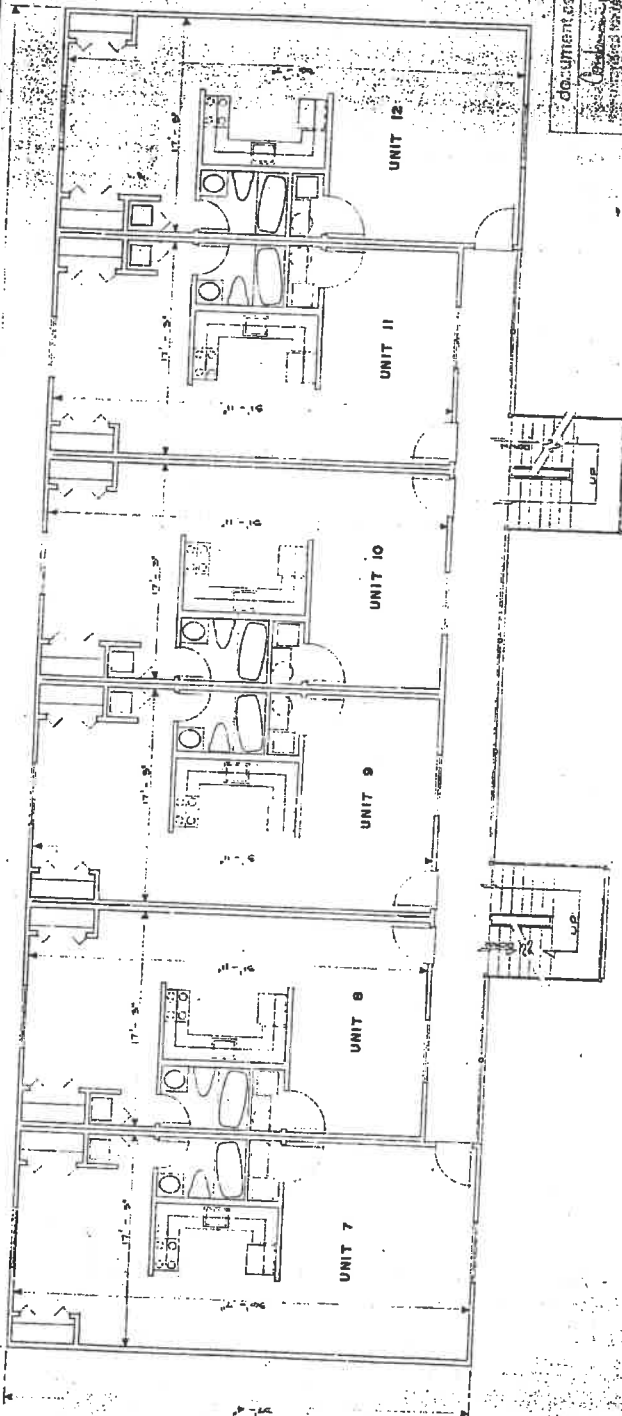


APPROVED FOR RECORDATION
 11/20/88
 EDWARD C. BELL
 SURVEYOR



FILED
 H. L. REEF
 SEP 20 10 55 AM '67
 REGISTERED ARCHITECT
 PUBLIC ACCOUNTANT
 DURHAM, NORTH CAROLINA

190'-0"



SECOND FLOOR PLAN
BUILDINGS A, B, C, D, E, F, G
ALL BUILDINGS IDENTICAL

Document 3371-1000
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 2. Accuracy of
 3. Compliance with
 4. Approval of
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CONTRACTOR
 This is to certify that the work shown on this plan was done in accordance with the contract and specifications, and that the same are in accordance with the approved plans.
 Approved by
 [Signature]
 1967

NOTARY PUBLIC
 STATE OF NORTH CAROLINA
 My commission expires on 12/31/67

SAMUEL C. HODGES, JR., AIA
ARCHITECT-PLANNING CONSULTANT
 808 SOUTH DUKE STREET, SUITE 404
 R.D. BOX 887 DURHAM, N.C. 27708

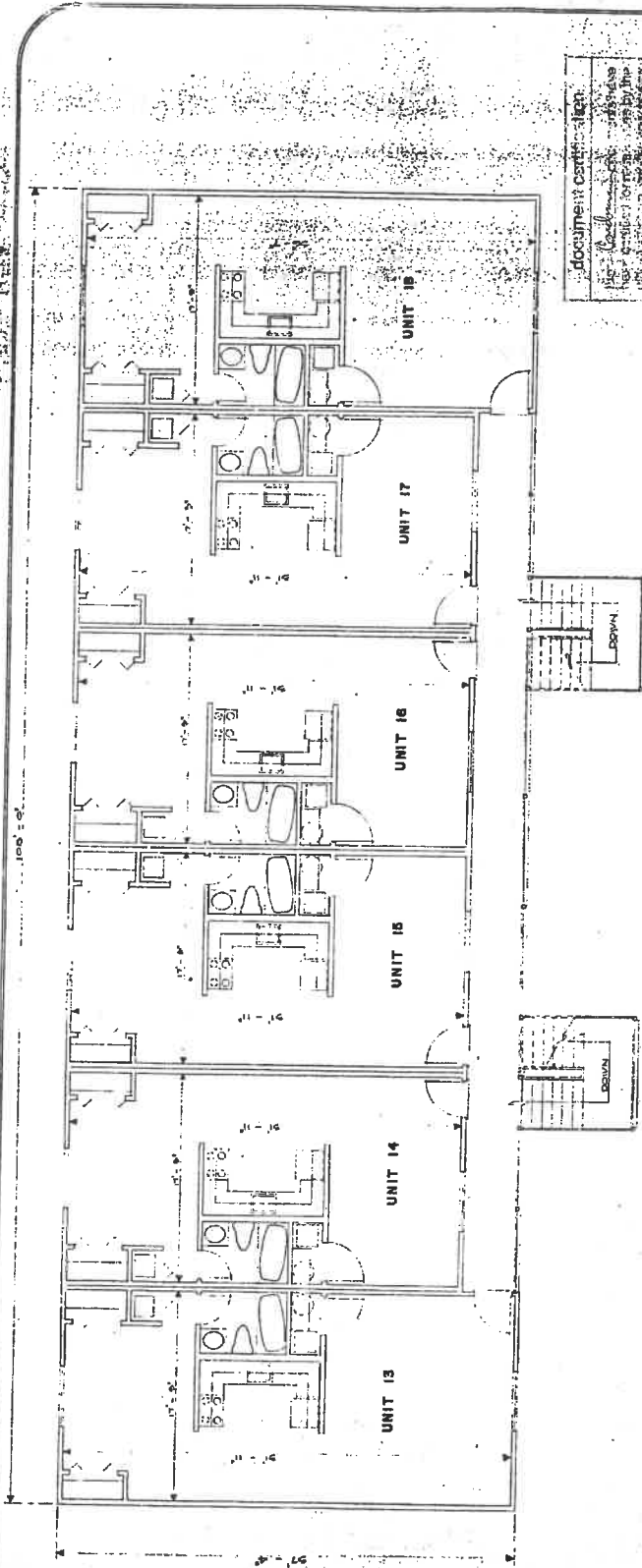
BAY CREEK CONDOMINIUMS
 DURHAM, NORTH CAROLINA

COMMISSION NUMBER 1840
 DRAWN BY: A. SHIFFER
 CHECKED BY:
 APPROVED BY:
 DATE: DECEMBER 29, 1967



A-2
 OF 5

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 SEP 30 10 55 AM '86
 ARCHITECT
 DURHAM, NORTH CAROLINA



THIRD FLOOR PLAN
BUILDINGS A,B,C,D,E,F,G
 ALL BUILDINGS IDENTICAL

document certified
 I, the undersigned, certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of North Carolina.
 Signature: [Signature]
 Date: [Date]

EXHIBITING
 This is to certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of North Carolina.
 Signature: [Signature]
 Date: [Date]



SAMUEL C. HODGES, JR., AIA
 ARCHITECT-PLANNING CONSULTANT
 808 SOUTH DUKE STREET, SUITE 404
 P.O. BOX 937 DURHAM, N.C. 27708

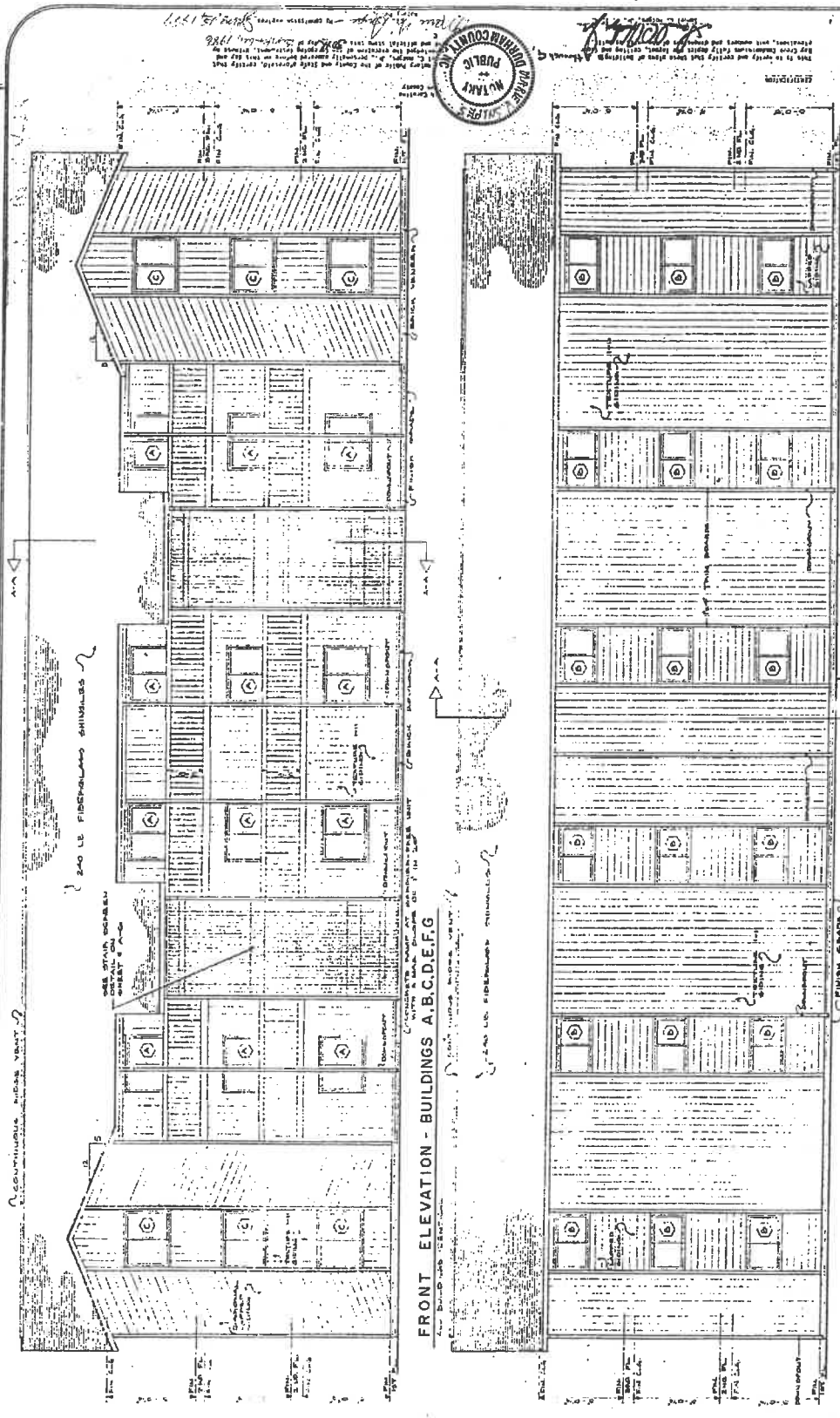
BAY CREEK CONDOMINIUMS
 DURHAM, NORTH CAROLINA

COMMISSION NUMBER: 0340
 DRAWN BY: A. S. PELL
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]
 DATE: [Date]



FILED
 4
 APR 30 10 55 AM '95
 DURHAM, N.C.

APPROVED FOR THE ARCHITECT
 BY THE BOARD OF ARCHITECTS
 APPROVAL VALID 30 DAYS FROM SAID
 DATE.



FRONT ELEVATION - BUILDINGS A,B,C,D,E,F,G

REAR ELEVATION - BUILDINGS A,B,C,D,E,F,G

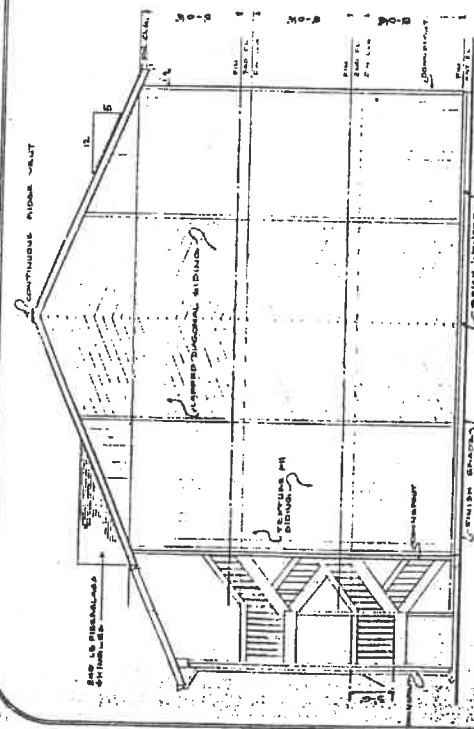
COMMISSION NUMBER: 5540
 DRAWN BY: S. C. H.
 APPROVED BY: [Signature]
 SCALE: 1/8" = 1'-0"
 DATE: JUL 23 1995

REVISIONS:

BAY CREEK CONDOMINIUMS
 DURHAM, NORTH CAROLINA

SAMUEL C. HODGES, JR., AIA
 ARCHITECT-PLANNING CONSULTANT
 608 BELMONT BLVD. SUITE 400
 P.O. BOX 887 DURHAM, N.C. 27708

FILED
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 SEP 30 10 55 AM '87
 BUREAU OF ARCHITECTURE
 REGISTERED PROFESSIONAL ARCHITECTS
 DURHAM, NORTH CAROLINA



TYPICAL END ELEVATION
 BUILDINGS A,B,C,D,E,F,G
 ALL BUILDINGS IDENTICAL. SCALE 3/4\"/>

Circle Book 4634

document certification
 Issue Certification. All drawings have been identified and are hereby certified by the City of Durham as being in accordance with the provisions of the Durham Building Code.
 By: *[Signature]* Chairman
 Date: 9/20/87
 Approval valid 90 days from date above.

PROFESSIONAL ARCHITECT
 This is to certify and certify that these plans of buildings conform with the provisions of the Durham Building Code, and that the same have been approved by the City of Durham, North Carolina.
[Signature]



A-5
 OF 8

SAMUEL C. HODGES, JR., AIA
 ARCHITECT-PLANNING CONSULTANT
 808 SOUTH DUKE STREET, SUITE 404
 P.O. BOX 887 DURHAM, N.C. 27702

BAY CREEK CONDOMINIUMS
 DURHAM, NORTH CAROLINA

COMMISSION NUMBER 2540
 CHECKED BY: *[Signature]*
 APPROVED BY: *[Signature]*
 DATE: September 28, 1987



FOR REGISTRATION REGISTER OF DEEDS
WILLIE L. COVINGTON
DURHAM COUNTY, NC
2002 JUL 30 04:58:33 PM
BK: 3521 PG: 823-835 FEE: \$47.00
INSTRUMENT # 2002035546

**FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM
FOR BAY CREEK CONDOMINIUMS AND MUTUAL QUITCLAIM**

Prepared by and mail to:
Charles A. Reinhardt, Jr., Reinhardt Milam Law Group, PLLC
PO Box 1452, Durham, NC 27702

NORTH CAROLINA, DURHAM COUNTY

This First Amendment to Declaration and mutual quitclaim, made and entered into this the 18 day of July, 2002, by and between BAY CREEK ASSOCIATION, INC., DALPH G. AIKEN (Widow), FLORENCE A. ROBERTS and husband BOBBY R. ROBERTS, BARBARA J. ROBERTS (Unmarried), VALINDA R. HICKS and husband JOSEPH A. HICKS, BRYANT B. ROBERTS and wife DEBORAH B. ROBERTS, ROBERTS CONSTRUCTION COMPANY, INC., R. ROY MITCHELL, Trustee, SOUTHBANK, MARGARET A. BRADY, Substitute Trustee; BRANCH BANKING & TRUST COMPANY (successor by merger to Security Federal Savings Bank, which in turn was successor by merger to Security Federal Savings & Loan Association), W.S. TUCKER, Trustee, MECHANICS AND FARMERS BANK, pursuant to Chapter 47A of the North Carolina Unit Ownership Act (hereinafter called the Act)

W-I-T-N-E-S-S-E-T-H

THAT WHEREAS, Roberts Construction Company, Inc. (hereinafter RCC) previously caused a Condominium Declaration for Bay Creek Condominiums (hereinafter referred to as the Declaration) to be filed in the Office of the Register of Deeds of Durham County in Book 1314 at page 168; and

THAT WHEREAS, Articles 4 and 21 of the Declaration provided that the ratio of undivided interests of each unit owner could be altered by an amendment to the Declaration and that amendments to the Declaration require the affirmative vote of at least 90% of the undivided interests of all unit owners; and

THAT WHEREAS, the Bay Creek Condominiums border the right-of-way for Interstate Highway 85, and as part of a highway improvement and widening project for Interstate Highway 85, the North Carolina Department of Transportation (hereinafter NCDOT) required fee simple title to a portion of the Bay Creek Condominiums, together with a permanent drainage easement, a temporary construction easement, and the complete removal of Bay Creek Condominium Building G and all 18 of the Bay Creek condominium units contained within said Building G; and

THAT WHEREAS, by deed recorded on July 8, 2000 in Book 2866 at page 901, Durham County Registry, RCC, the original Declarant and the record owner of that time of all 18 units within Building G, conveyed to NCDOT the property which was being sought by NCDOT; and

THAT WHEREAS, the property which was conveyed by RCC to NCDOT by the aforesaid deed was actually owned not just by RCC but was also owned in undivided interests by the remaining unit owners of Bay Creek Condominiums; and

THAT WHEREAS, the undersigned represent 100% of all the unit owners and 100% of the holders of Deed of Trust liens on the units (as more specifically set forth on Exhibit B to this First Amendment), and wish by this First Amendment to (a) withdraw Building G and all 18 of its units from the condominium regime of the Declaration and (b) to re-apportion the undivided interests in the condominium in light of the withdrawal of said Building G and all 18 of its units.

NOW, THEREFORE, the undersigned hereby declare and quitclaim as follows:

1. Building G of Bay Creek Condominiums, together with all 18 of its units, as the same are more fully described in the Declaration, and shown on Plat Book 112 at page 83, Durham County Registry, and Condominium Drawer 4 at page 20, Durham County Registry, are hereby WITHDRAWN from the condominium regime of Bay Creek Condominiums. Except as conveyed or to be conveyed to NCDOT as provided in Paragraph 2 below, the ground area formerly occupied by Building G shall be hereby part of the common area of Bay Creek Condominiums.

2. It is understood that, by separate deeds and release deeds, the property and easements which were conveyed by RCC to the NCDOT by deed recorded on July 8, 2000 in Book 2866 at page 901, Durham County Registry, will be quitclaimed by the undersigned to the NCDOT, and that the property and easement described in said previously recorded deed from RCC to NCDOT, and in the quitclaim and release deeds from the undersigned to NCDOT to follow, shall no longer be a part of the common area of Bay Creek Condominium but shall instead be the property of NCDOT.

3. RCC, as the last record owner of said Units 1 through 18, Building G, does hereby quitclaim unto the unit owners of Bay Creek Condominium, as set forth on Exhibit B to this First Amendment, all right, title and interest which RCC may have in and to said Units 1 through 18, Building G, which are not otherwise fully encompassed within the property previously conveyed and to be quitclaimed to NCDOT as described in Paragraph 2 above, it being understood that the property so quitclaimed by RCC shall become part of the common area of Bay Creek Condominiums. The record owners of Bay Creek Condominium, as set forth on Exhibit B to this First Amendment, hereby quitclaim and release unto RCC all rights to the condemnation award paid by NCDOT to RCC, as well as all rights to the building materials, fixtures and other personal property which formerly made up and were incorporated into Building G of Bay Creek Condominium, and which personal property has already been removed by RCC from the previous site location of said Building G.

4. Exhibit A to this First Amendment reallocates the percentages of undivided interest in the Common Elements, of votes in the Association, and of a percentage of the Common Expenses resulting from the above-described withdrawal of Building G and its 18 units from the Bay Creek Condominium regime and the above-described withdrawal and conveyance of property and easements to NCDOT. It is fully understood that the interests as reallocated by this Amendment shall, with the units to which they attach, remain the property of the respective unit owners, and the secured property of the respective lienholders, as set forth on Exhibit B to this First Amendment.

5. Exhibit B to this First Amendment set forth the ownership interests and the Deed of Trust interests of the undersigned.

Except as specifically amended herein, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have executed this First Amendment to the Declaration of Condominium for Bay Creek Condominiums, the day and year first above written.

SIGNATURE AND NOTARY PAGES ATTACHED

Dalph G. Aiken (SEAL)
Dalph G. Aiken

Florence A. Roberts (SEAL)
Florence A. Roberts

Bobby R. Roberts (SEAL)
Bobby R. Roberts

Bryant B. Roberts (SEAL)
Bryant B. Roberts

Deborah B. Roberts (SEAL)
Deborah B. Roberts

Valinda R. Hicks (SEAL)
Valinda R. Hicks

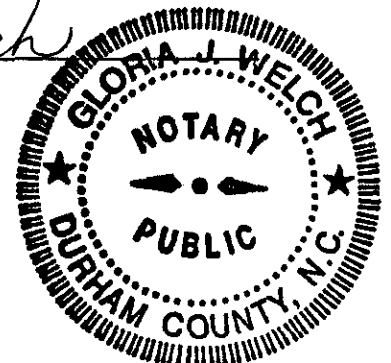
Joseph A. Hicks (SEAL)
Joseph A. Hicks

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, do hereby certify that Dalph G. Aiken, Florence A. Roberts and husband Bobby R. Roberts, Bryant B. Roberts and wife Deborah B. Roberts, and Valinda R. Hicks and husband Joseph A. Hicks, each personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 1st day of June, 2002.

Gloria J. Welch
Notary Public



My commission expires: 5-17-03

ROBERTS CONSTRUCTION COMPANY, INC.

By: B.R. Roberts

BAY CREEK ASSOCIATION, INC.

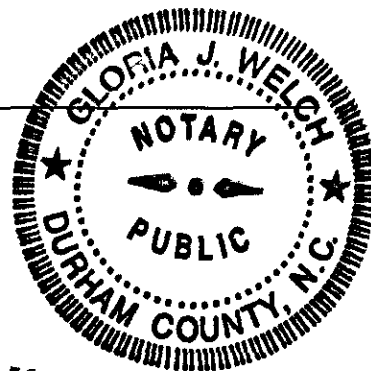
By: B.A. Roberts

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, certify that B.R. Roberts personally came before me this day and acknowledged that he is President of ROBERTS CONSTRUCTION COMPANY, INC., and that he, as President, being authorized to do so, executed the foregoing instrument ~~and sealed it with the corporate seal~~, all on behalf of the corporation.

Witness my hand and official stamp or seal this 1st day of June, 2002.

Gloria J. Welch
Notary Public



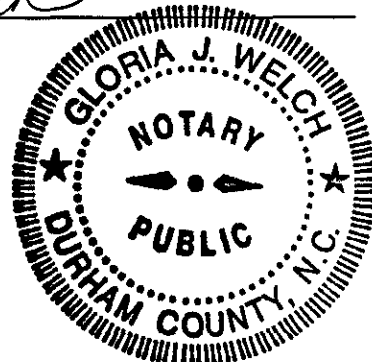
My commission expires: 5-17-03

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, certify that B. R. ROBERTS personally came before me this day and acknowledged that he is President of BAY CREEK ASSOCIATION, INC., and that he, as President, being authorized to do so, executed the foregoing instrument ~~and sealed it with the corporate seal~~, all on behalf of the corporation.

Witness my hand and official stamp or seal this 1st day of June, 2002.

Gloria J. Welch
Notary Public



My commission expires: 5-17-03

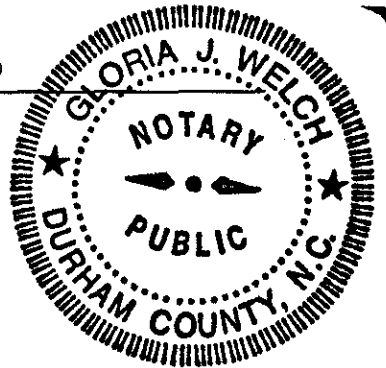
Barbara J. Roberts (SEAL)
Barbara J. Roberts

~~GEORGIA~~ NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, do hereby certify that Barbara J. Roberts personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 15th day of June, 2002.

Gloria J. Welch
Notary Public



My commission expires: 5-17-03

[Signature] (SEAL)
R. Roy Mitchell, Trustee

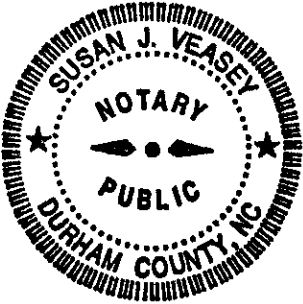
SOUTHBANK

By: [Signature]

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, do hereby certify that R. Roy Mitchell, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 26th day of June, 2002.



Susan Veasey
Notary Public

My commission expires: 1-29-2007

~~NORTH CAROLINA~~ Alabama
~~DURHAM COUNTY~~ of Madison

I, a Notary Public, certify that William T. Morrow personally came before me this day and acknowledged that he is Executive Vice-President of SOUTHBANK, and that he, as Executive Vice-President, being authorized to do so, executed the foregoing instrument ~~and sealed it with the corporate seal~~, all on behalf of the corporation.

Witness my hand and official stamp or seal this 24th day of June, 2002.

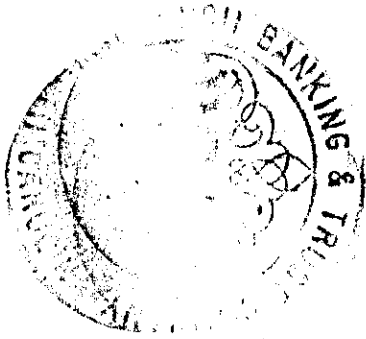


Kelley Knight
Notary Public

My commission expires: 10-14-03

SIGNATURE GUARANTEED
EQUIMEDALLION GUARANTEED
SOUTHBANK

[Signature]
AUTHORIZED DOCUMENT
(000) E9005070
SECURITIES TRANSFER ACT/REGISTRATION PROGRAM



Margaret A. Brady (SEAL)
Margaret A. Brady, Substitute Trustee

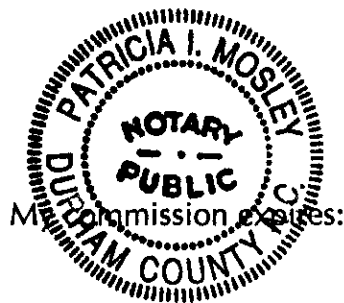
BRANCH BANKING & TRUST COMPANY

By: C. W. Belk
V.P.

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, do hereby certify that Margaret A. Brady, Substitute Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 18th day of July, 2002.



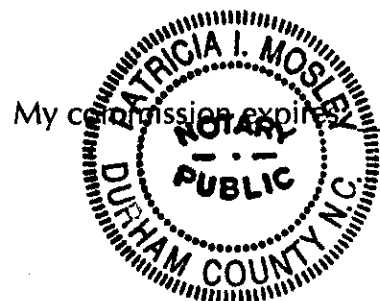
Patricia I. Mosley
Notary Public

My commission expires: 11/9/02

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, certify that C. W. Belk personally came before me this day and acknowledged that he is Vice President of BRANCH BANKING & TRUST COMPANY, and that he, as Vice President, being authorized to do so, executed the foregoing instrument and sealed it with the corporate seal, all on behalf of the corporation.

Witness my hand and official stamp or seal this 18th day of July, 2002.



Patricia I. Mosley
Notary Public

My commission expires: 11/9/02

W.S. Tucker

(SEAL)

W.S. Tucker, Trustee

MECHANICS AND FARMERS BANK

By:

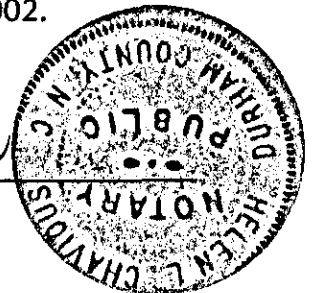
W. Donald Harrington
Senior Vice President

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, do hereby certify that W.S. Tucker, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 26th day of ~~June~~ ^{July}, 2002.

Helen L. Chavious
Notary Public



My commission expires: 7-26-2003

NORTH CAROLINA
DURHAM COUNTY

I, a Notary Public, certify that W. DONALD HARRINGTON personally came before me this day and acknowledged that he is SENIOR VICE PRESIDENT of MECHANICS AND FARMERS BANK, and that he, as SENIOR VICE PRESIDENT, being authorized to do so, executed the foregoing instrument and sealed it with the corporate seal, all on behalf of the corporation.

Witness my hand and official stamp or seal this 26th day of ~~June~~ ^{July}, 2002.

Helen L. Chavious
Notary Public

My commission expires: 7-26-2003

**EXHIBIT A
TO FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM
FOR BAY CREEK CONDOMINIUMS**

The undivided interests in the common areas and facilities, as originally defined in the Declaration for Bay Creek Condominiums, are hereby re-apportioned and re-allocated as follows:

Building A:

Units 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 and 18
A One-One Hundred Eighth (1/108) undivided interest for each unit

Building B:

Units 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 and 18
A One-One Hundred Eighth (1/108) undivided interest for each unit

Building C:

Units 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 and 18
A One-One Hundred Eighth (1/108) undivided interest for each unit

Building D:

Units 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 and 18
A One-One Hundred Eighth (1/108) undivided interest for each unit

Building E:

Units 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 and 18
A One-One Hundred Eighth (1/108) undivided interest for each unit

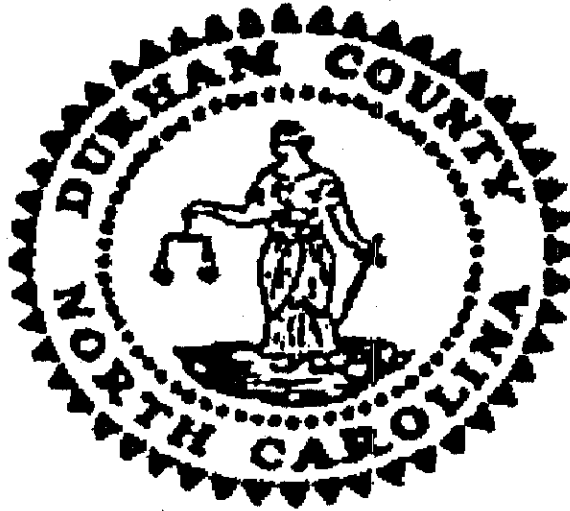
Building F:

Units 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17 and 18
A One-One Hundred Eighth (1/108) undivided interest for each unit

**EXHIBIT B
TO FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM
FOR BAY CREEK CONDOMINIUMS**

As of the date of this First Amendment, the following are the unit owners and holders of security interests in the Bay Creek Condominiums"

| <u>Owner Name(s)</u> | <u>Units Owned</u> | <u>Security Interest, if any</u> |
|----------------------|--|---|
| Dalph G. Aiken | Units 1-7, Building A | None |
| Florence A. Roberts | Units 8-18, Building A Units 1-18, Building B | None |
| Bryant B. Roberts | Units 1-18, Building C | Southbank Date: December 29, 200 Original Principal: \$300,000 Recorded: Book 2973, page 579 |
| Valinda R. Hicks | Units 1-18, Building D | None |
| Barbara J. Roberts | Units 1-18, Building E | BB&T Date: November 21, 1989 Original Principal: \$320,000 Recorded: Book 1561, page 46 |
| Bobby R. Roberts | Units 1-18, Building F | Mechanics & Farmers Bank Date: Undated Original Principal: \$300,000 Recorded: Book 3055, page 853 |



WILLIE L. COVINGTON
REGISTER OF DEEDS , DURHAM COUNTY
DURHAM COUNTY COURTHOUSE
200 E. MAIN STREET
DURHAM, NC 27701

Filed For Registration: 07/30/2002 04:58:33 PM
Book: RE 3521 Page: 823-835
Document No.: 2002035546
AMD 13 PGS \$47.00

Recorder: CAROL JENKINS

State of North Carolina, County of Durham

The foregoing certificate of GLORIA J WELCH , SUSAN J VEASEY , PATRICIA I MOSLEY , HELEN L CHAVIOUS , KELLEY L KNIGHT Notaries are certified to be correct. This 30TH of July 2002

WILLIE L. COVINGTON , REGISTER OF DEEDS .

By: Carol Jenkins
Deputy/Assistant Register of Deeds



2002035546

03/02/2023 09:33:50AM

BT: OPR B: 9871 P: 522 Pages: 19

AMD - AMENDMENT

Fee: \$42.00 Excise Tax: \$0

INSTRUMENT #2023053614

Sharon Marsh

Prepared by and return to Kennon Craver, PLLC, PO Box 51579, Durham, NC 27717-1579

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

SECOND AMENDMENT TO DECLARATION OF BAY CREEK CONDOMINIUMS

THIS SECOND AMENDMENT TO DECLARATION OF BAY CREEK CONDOMINIUMS (the "Amendment") is made to be effective as of March 2, 2023, by 1309 HUDSON AVENUE, LLC, a North Carolina limited liability company (the "Declarant") and HUDSON HEIGHTS CONDOMINIUM ASSOCIATION (f/k/a Bay Creek Association, Inc.), a North Carolina nonprofit corporation (the "Association").

The term "Developer" used in the Declaration shall mean and refer to Declarant as the context dictates.

Recitals:

A. Declarant owns all the units in Bay Creek Condominiums (the "Condominium") more particularly described in that certain Declaration of Bay Creek Condominiums recorded in Book 1314, Page 168, Durham Country Registry, as amended by that certain First Amendment to Declaration of Bay Creek Condominiums recorded in Book 3521, Page 823, Durham Country Registry (the "Declaration") together with the plat and plans thereof recorded in Plat Book 112, Page 83, Durham County Registry and Condominium Plat Book 4, Pages 20 through 64, Durham County Registry (the "Plat").

B. The Condominium was established under Chapter 47A of the North Carolina General Statutes, known as the "Unit Ownership Act".

C. The Association is established for the purpose of governing the Condominium and fulfilling the responsibilities set forth in the Declaration and the Unit Ownership Act.

D. Declarant has already renovated or plans to renovate the units on a building by building basis and sell the renovated units. Declarant desires to amend the Declaration to address certain matters.

NOW, THEREFORE, Declarant and the Association hereby agree as follows:

1. Recitals; Defined Terms. The foregoing recitals are incorporated herein by reference. Capitalized, defined terms used in this Amendment shall have the meanings given in the Declaration unless otherwise specifically set forth herein. The term “Condominium Documents” used herein shall mean collectively the Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association and any rules and regulations promulgated by the Association, all as amended from time to time.
2. Name of Condominium. The name of the Condominium is hereby changed to be “Hudson Heights Condominium” and all references in the Declaration to the Condominium shall mean and refer to Hudson Heights Condominium.
3. Name of Association; Articles of Incorporation. The name of the Association has been changed to “Hudson Heights Condominium Association” by the filing of articles of amendment with the North Carolina Secretary of State on February 14, 2023 and all references in the Declaration to the Association shall mean and refer to Hudson Heights Condominium Association, a North Carolina nonprofit corporation. For convenience of reference, the original Articles of Incorporation for the Association filed September 26, 1986 and the Amendment to the Articles of Incorporation filed February 14, 2023 are attached hereto as Exhibit A. Future amendments to the Articles of Incorporation shall not be required to be recorded in the land records.
4. Agent for Service of Process. The agent for service of process designated in Article 7 of the Declaration is hereby changed to be Gary Berman, having a mailing address in the City and County of Durham at 123 W Main St., Ste. M-08, Durham, North Carolina 27701.
5. Amendment to Bylaws. The Bylaws of the Association have been duly amended, and such amendment is attached hereto as Exhibit B.
6. Period of Declarant Control. Not later than 60 days after conveyance of twenty-five percent (25%) of the units to unit owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the executive board shall be elected by unit owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the units to unit owners other than a Declarant, not less than thirty-three percent (33%) of the members of the executive board shall be elected by unit owners other than the Declarant. The “Period of Declarant Control” means the time in which the Declarant controls the board of directors. The Period of Declarant Control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the units to unit owners other than a Declarant; or (ii) two years after Declarant has ceased to offer units for sale in the ordinary course of business.
7. Assessments. Section 15.B. of the Declaration is hereby deleted in its entirety and replaced with the following:

Regular assessments will commence on a unit by unit basis, for each unit upon the unit buyer's purchase from Declarant. Units owned by Declarant are not assessable. Regular assessments, once commenced, shall be payable in monthly installments, or on such other schedule as the Board of Directors may determine, but in any event at least annually. At the initial sale of each unit by Declarant to a unit buyer, the buyer will pay the Association at closing, to be shown and collected on the settlement statement, the following:

- (i) a one time, lump sum in the amount of \$1,250 for the purpose of funding a reserve account or accounts for the Association, made in addition to and not in lieu of regular assessments;
- (ii) the prorated assessment for the month closing occurs based on the number of days remaining in the month; and
- (iii) and the regular assessment for the month immediately following the closing.

The seventh through the tenth sentences of Section 15.D. of the Declaration are also hereby deleted in their entirety.

8. Insurance. During its renovation of the buildings in the condominium, Declarant may elect to insure uninhabited buildings on a builder's risk basis and exclude such buildings from the Association's master property policy. All renovated buildings shall be insured under the Association's master policy prior to the first sale of a unit in the building. The master policy will not cover upgrades, improvements or betterments made by unit owners to their units.

The second sentence of Section 16.A. of the Declaration is hereby deleted in its entirety, and replaced with the following:

Each unit owner other than Declarant shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon the upgrades, improvements and betterments to his or her unit, his or her personal property, and public liability insurance coverage in the amount of at least \$300,000 for bodily injury, including death, of persons and property damage, arising out of a single occurrence. Owner's insurance policies shall waive any right of the insurer to contribution or proration because of the Association's casualty and public liability policy. Unit owners may procure such other insurance as they desire.

9. No Rights of First Refusal. There are no rights of first refusal in favor of Declarant or the Association.

10. Lender Information. Unit owners shall notify the Association of each mortgage lien encumbering their unit, and shall provide the Association with the contact information of their lender(s) having a security interest in their units (each a "Lender").

11. Rights of First Lien Holders. This Section 11 shall govern notwithstanding any other provision of the Condominium Documents, and to the extent that there is a conflict between any other provision of the Condominium Documents and this Section 11, this Section 11 shall control.

(a) Notices of Action. A Lender will be entitled, and the Board shall cause to be delivered, at least sixty (60) days prior written notice of the following:

- (1) any condemnation loss or any casualty loss which affects a material portion of the Condominium or which affects any Unit on which there is a mortgage;
- (2) any delinquency in the payment of assessments or charges owed by a Unit Owner subject to a mortgage, where such delinquency has continued for a period of sixty (60) days;
- (3) Any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to Article IX hereof; or
- (4) Any proposed action by the Association, the Board or the Owners which under the terms of the Condominium Documents requires the consent of a specified percentage of Lenders.

(b) Approval Rights of Lenders. The approval of Lenders shall be required as follows in the instances described below:

- (1) Termination of Condominium. Any action to terminate the Condominium after substantial destruction or a substantial taking in condemnation of the Condominium or for other reasons requires the approval by Lenders that represent at least fifty-one percent (51%) of the votes of unit estates that are subject to mortgages.
- (2) Amendment of Condominium Documents. Any amendment of a material adverse nature to Lenders requires the approval of at least fifty-one percent (51%) of the votes of unit estates that are subject to mortgages. By way of example, amendments to provisions in the Condominium Documents relating to the following may be of a material adverse nature to Lenders:
 - A. Voting;
 - B. Assessments, assessment liens or subordination of such liens;
 - C. Reserves for maintenance, repair and replacement of the Common Elements;
 - D. Insurance or fidelity bonds;

- E. Rights to the use of Common Elements;
- F. Responsibility for maintenance and repair of the Common Elements;
- G. Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- H. Boundaries of any Unit;
- I. The interests in the Common Elements or Limited Common Elements;
- J. Convertibility of Units into Common Elements or of Common Elements into Units;
- K. Leasing of Units;
- L. Imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey his or her Unit in the Condominium;
- M. Establishment of self-management by the Association where professional management has been required by HUD, VA, FHA, Fannie Mae, FHLMC, or Ginnie Mae; or
- N. Any amendment to a provision in the Condominium Documents which is for the express benefit of Lenders.

(c) Notices to Lenders. All notices and requests for approval sent by the Association to a Lender pursuant to this Section 11 shall be sent by certified or registered United States mail, postage prepaid, return receipt requested. If a Lender fails to approve or disapprove a request for approval presented to it pursuant to this Section 11 within sixty (60) days following its receipt thereof, the Lender shall be deemed to have approved the request.

12. Miscellaneous. Except as expressly set forth in this Amendment, the Declaration shall remain and in full force and effect.

[signature and acknowledgement page follows this page]

[Signature Page to Second Amendment to Declaration of Bay Creek Condominiums]

IN WITNESS WHEREOF, Declarant has caused this Amendment to be executed as of the day and year first above written.

DECLARANT:

1309 Hudson Avenue, LLC

By: Kenneth M. Gorfkle
Kenneth M. Gorfkle, Manager

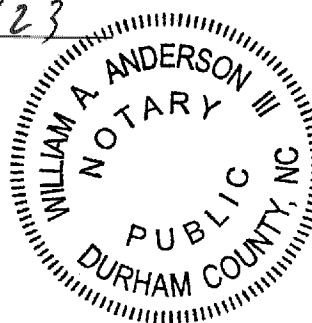
STATE OF NORTH CAROLINA
COUNTY OF Durham

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Kenneth M. Gorfkle.

Date: 2/14/23

W
Notary Public

[Official Seal]



Print Name: William A. Anderson III

My commission expires: 2-13-24

ASSOCIATION:

Hudson Heights Condominium Association

By: Kenneth M. Gorfkle
Kenneth M. Gorfkle, President

STATE OF NORTH CAROLINA
COUNTY OF Durham

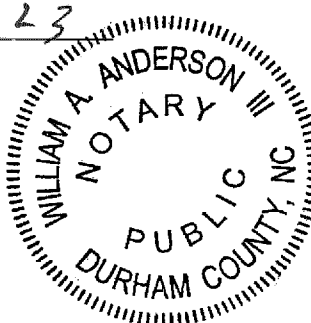
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Kenneth M. Gorfkle

Date: 2-14-23

W
Notary Public

[Official Seal]



Print Name: William A. Anderson III

My commission expires: 2-13-24

EXHIBIT A

**Original Articles of Incorporation and Amendment to Articles of Incorporation for
Association**

[see following pages]

DOCUMENT #38976
DATE 03/02/23 TIME 09:12
FILED
TASU EURE
SECRETARY OF STATE
NORTH CAROLINA

ARTICLES OF INCORPORATION
OF
BAY CREEK ASSOCIATION, INC.

The undersigned, being of the age of eighteen (18) years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under Chapter 55A of the General Statutes of North Carolina and the several amendments thereto.

I

NAME

The name of the corporation is Bay Creek Association, Inc., hereinafter referred to as the Association.

II

DURATION

The period of duration of the corporation is perpetual.

III

PURPOSES

The purpose for which the Association is organized is to provide an entity pursuant to the Unit Ownership Act, Chapter 47A of the North Carolina General Statutes, for the operation of not more than one hundred twenty-sixty (126) condominium units in the Bay Creek Condominiums, in the City of Durham, County of Durham, State of North Carolina, according to the Declaration now or hereinafter recorded in the Office of the Register of Deeds of Durham County. This Association does not contemplate pecuniary gain or profit to the members thereof and is formed to provide for maintenance, preservation and architectural control to such properties as may hereinafter be brought within the jurisdiction of this corporation as provided herein.

IV

POWERS

The powers of the Association shall include and be governed by the following provisions:

(1) The Association shall have all of the common law and statutory powers of corporations organized under Chapter 55A of the General Statutes of North Carolina that do not conflict with the terms of these Articles.

(2) The Association shall have all of the powers and duties set forth in the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes, except as limited by these Articles and the respective Declaration of Bay Creek Condominiums, and all of the powers and duties reasonably necessary to operate and maintain the Bay Creek Condominiums pursuant to the said Declaration, as amended from time to time including, but not limited to, the following:

- (A) To make and collect assessments against members as unit owners to defray the common costs and expenses of the condominium.
- (B) To use the proceeds of assessments in the exercise of its powers and duties.
- (C) To maintain, repair, replace and operate the condominium property including the common areas and facilities.
- (D) To purchase insurance upon the condominium property and insurance for the protection of the Association and its members as unit owners.
- (E) To reconstruct improvements after casualty and to further improve the property.
- (F) To make and amend reasonable Rules and Regulations respecting the use of the property in the condominium.
- (G) To contract for the management of the condominium property with a third party and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the respective Declaration or Bylaws to have approval of the Board of Directors or the membership of the Association.
- (H) To enforce by legal means the provisions of the Unit Ownership Act, Chapter 47A of the North Carolina General Statutes, the Declaration, these Articles, the Bylaws of the Association and the Rules and Regulations for the use of the property in the condominium.
- (I) To employ personnel to perform the services required for proper operation of the condominium.

3. All funds and the titles of all properties acquired by the Association shall be held in trust for the members in accordance with the provisions of the said Declaration, these Articles, and the Bylaws.

V

MEMBERS

1. The members of the Association shall be the record owners of condominium units in the Bay Creek Condominiums. Upon a termination of the condominium the members shall consist of those who are members at the time of such termination and their successors and assigns.

2. After receiving approval of the Association required by the said Declaration, change of membership in the Association shall be established by recording in the Office of the Register of Deeds of Durham County, North Carolina, a deed or other instrument establishing a record title to a unit in the condominium and the delivery to the Association of a certified copy of such instrument. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

3. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his unit.

4. The exact number of votes a shareholder shall be entitled to cast at Association meetings shall be equal to his percentage of ownership in the common areas and facilities applicable to his unit ownership as recited in the Declaration of Bay Creek Condominiums, as amended, from time to time.

5. If a unit is owned by more than one person, or is under lease, or is owned by a corporation, partnership, joint venture or other entity, the designation of a voting representative shall be made as provided in the Bylaws and such voting representative for purposes of this Article shall be considered to be the "member".

VI

SHARES

The corporation is to have no capital stock. Every person or entity who is a record owner of a fee or undivided fee interest in any condominium unit in Bay Creek Condominiums shall be a member of the Association as defined in Article V herein. Membership shall be appurtenant to and may not be separated from ownership of any condominium unit which is subject to assessment by the Association.

VII

PREEMPTIVE RIGHTS

The shareholders of the corporation shall have no preemptive right to acquire additional or treasury shares of the corporation.

VIII

REGISTERED AGENT

The address of the initial registered office of the corporation in the State of North Carolina is 411 Andrews Road, City of Durham, County of Durham, State of North Carolina; and the name of its initial registered agent at such address is Jack K. Ward.

IX

DIRECTORS

(A) The number of directors constituting the initial Board of Directors shall be three (3); and the names and addresses of the persons who are to serve as directors until the first meeting of the members of the Association, or until their successors be elected and qualify, are:

| <u>NAME</u> | <u>ADDRESS</u> |
|------------------|---|
| Jack K. Ward | 411 Andrews Road, Unit 110, Durham County, Durham, North Carolina 27705 |
| Bobby R. Roberts | 411 Andrews Road, Unit 110, Durham County, Durham, North Carolina 27705 |
| Dennis B. Mangum | 411 Andrews Road, Unit 110, Durham County, Durham, North Carolina 27705 |

(B) The first election of directors by the members of the Association shall not be held until after the Developer, Roberts Construction Company, a North Carolina corporation, has closed the sale of not less than seventy-five percent (75%) of Bay Creek Condominiums, or until the Developer elects to terminate its control of the said condominium or until after March 1, 1986, whichever occurs first. The directors named in these Articles shall serve until the first election of directors, and any vacancies in their number occurring before the first election shall be filled by the remaining directors.

X

BYLAWS

The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided by the Bylaws.

XI

AMENDMENTS

Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

- (A) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.
- (B) A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing, provided such approval or disapproval is delivered to the Secretary at or prior to the meeting.
 - (1) An amendment must be approved by not less than 75% of the entire membership of the Board of Directors and by not less than 75% of the votes of the entire membership of the Association; or
 - (2) By not less than 80% of the votes of the entire membership of the Association.
- (C) Provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of members, without approval in writing by all members and the joinder of all record owners of mortgages upon the Bay Creek Condominiums. No amendment shall be made that is in conflict with the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes, as amended, or the Declaration of Bay Creek Condominiums, as amended, and on file in the Office of the Register of Deeds of Durham County, North Carolina.

XII

DEFINITIONS

- (A) The definitions contained in the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes, as amended, are hereby adopted to the extent that such definitions are applicable to these Articles of Incorporation.

(B) The term "Developer" means Roberts Construction Company, a North Carolina corporation.

(C) The term "Bay Creek Condominiums" means collectively those condominium units and property whose Declaration under the North Carolina Unit Ownership Act are executed by the Developer and in which Declaration this Association is designated as operating entity.

XIII

INCORPORATORS

The name and address of the incorporator is:

Jack K. Ward
411 Andrews Road, Unit 110
Durham, North Carolina 27705

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd
day of September, 1986.


JACK K. WARD (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

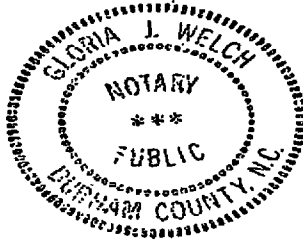
I, Gloria J. Welch, a Notary Public, do hereby certify that JACK K. WARD personally appeared before me this day and acknowledged the due execution of the foregoing Articles of Incorporation.

WITNESS my hand and notarial seal, this 23rd day of September, 1986.


Notary Public

My commission expires:

My Commission Expires 5-17-88





NORTH CAROLINA

Department of the Secretary of State

To all whom these presents shall come, Greetings:

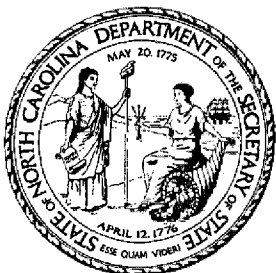
I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF AMENDMENT

OF

HUDSON HEIGHTS CONDOMINIUM ASSOCIATION

the original of which was filed in this office on the 20th day of February, 2023.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 20th day of February, 2023.

Elaine F. Marshall

Secretary of State

SOSID: 0195908
Date Filed: 2/20/2023 1:02:00 PM
Elaine F. Marshall
North Carolina Secretary of State
C2023 045 04637

State of North Carolina Department of the Secretary of State

ARTICLES OF AMENDMENT NONPROFIT CORPORATION

Pursuant to §55A-10-05 of the General Statutes of North Carolina, the undersigned corporation hereby submits the following Articles of Amendment for the purpose of amending its Articles of Incorporation.

1. The name of the corporation is: Bay Creek Association, Inc.
2. The text of each amendment adopted is as follows (state below or attach):
 - a. Article I is amended such that the name of the corporation is changed to be: **Hudson Heights Condominium Association**. All references in the Articles of Incorporation to the corporation shall be to Hudson Heights Condominium Association, and all references to the condominium established by the Declaration of Condominium referenced below in Section 2.e. hereof shall be to Hudson Heights Condominium.
 - b. Article VII is hereby deleted.
 - c. Article VIII is hereby amended such that the registered office of the corporation is changed to be 123 W Main St., Ste. M-08, Durham, North Carolina 27701, and the registered agent at such address is changed to be Gary Berman.
 - d. Article IX is hereby deleted in its entirety and replaced with the following:

Article IX

DIRECTORS

(A) The number of directors constituting the initial board of directors existing during the Period of Declarant control shall be one (1), and the name and address of the initial director is Kenneth M. Gorfkle, 3 Lanier Drive, Chapel Hill, NC 27517.

(B) Not later than the termination of the Period of Declarant Control, the unit owners shall elect an executive board of at least three (3) members, at least a majority of whom must be unit owners.

Not later than 60 days after conveyance of twenty-five percent (25%) of the units to unit owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the executive board shall be elected by unit owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the units to unit owners other than a Declarant, not less than thirty-three

percent (33%) of the members of the executive board shall be elected by unit owners other than the Declarant.

The "Period of Declarant Control" means the time in which the Declarant controls the board of directors. The Period of Declarant Control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the units to unit owners other than a Declarant; or (ii) two years after Declarant has ceased to offer units for sale in the ordinary course of business.

e. Article XII, Sections (B) and (C) are hereby deleted and replaced with the following:

(B) The term "Declarant" used in the Articles of Incorporation shall mean and refer to 1309 Hudson Avenue, LLC, a North Carolina limited liability company.

(C) The term "Hudson Heights Condominium" shall mean and refer to the condominium of the same name as more fully described in that certain Declaration of Bay Creek Condominiums recorded in Book 1314, Page 168, Durham County Registry, as amended by that certain First Amendment to Declaration of Bay Creek Condominiums recorded in Book 3521, Page 823, Durham County Registry together with the plat and plans thereof recorded in Plat Book 113, Page 83, Durham County Registry and Condominium Plat Book 4, Pages 20 through 64, Durham County Registry, as the same may be amended from time to time.

3. The date of adoption of each amendment was February 14, 2023.
4. The foregoing amendments were approved by 100% of members of the corporation and the board of directors of the corporation.
5. These articles will be effective upon filing.

This the 14th day of February, 2023.

Bay Creek Association, Inc.

By: Kenneth M. Gorfkle
Name: Kenneth M. Gorfkle
Title: President

EXHIBIT B

Amendment to Bylaws of Hudson Heights Owners Association

[see following pages]

**AMENDMENT TO BYLAWS
OF
HUDSON HEIGHTS CONDOMINIUM ASSOCIATION**

The Bylaws of Hudson Heights Condominium Association are hereby amended as follows:

1. All references to Bay Creek Association, Inc. shall be changed to Hudson Heights Condominium. All references to Bay Creek Condominiums shall be changed to Hudson Heights Condominium. All references to Developer shall mean and refer to Declarant, 1309 Hudson Avenue, LLC, as the context may require.

2. Article III, Section 3 is hereby deleted in its entirety.

3. Article IV, Section 2(a) is hereby deleted in its entirety and replaced with the following:

(a) Not later than the termination of the Period of Declarant Control, the unit owners shall elect an executive board of at least three (3) members, at least a majority of whom must be unit owners.

Not later than 60 days after conveyance of twenty-five percent (25%) of the units to unit owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the executive board shall be elected by unit owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the units to unit owners other than a Declarant, not less than thirty-three percent (33%) of the members of the executive board shall be elected by unit owners other than the Declarant.

The "Period of Declarant Control" means the time in which the Declarant controls the board of directors. The Period of Declarant Control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the units to unit owners other than a Declarant; or (ii) two years after Declarant has ceased to offer units for sale in the ordinary course of business.

3. Article III, Section 8 is hereby deleted in its entirety and replaced with the following:

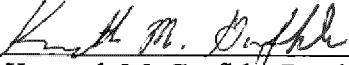
8. Quorum. A quorum is deemed present throughout any meeting of the association if persons entitled to cast twenty percent (20%) of the votes are present in person or by proxy at the beginning of the meeting. Except where the Declaration, Articles of Incorporation or applicable law require a greater percentage, any action may be taken at any meeting of the members of the Association at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes represented at such meeting. If business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of

those present in person or by proxy. Notwithstanding any provision to the contrary in the declaration or the bylaws, the quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

4. The third sentence of Article VII, Section 3 reading "Provided, however . . . contingencies and reserves." is hereby deleted in its entirety.

Officer's Certificate

The foregoing Amendment to Bylaws was duly adopted by the board of directors of the Association on February 14, 2023.



Kenneth M. Gorfkle, President

DOCUMENT #389726
DATE 08/28/86 TIME 10:12
THOMAS E. JURE
SECRETARY OF STATE
NORTH CAROLINA

ARTICLES OF INCORPORATION
OF
BAY CREEK ASSOCIATION, INC.

The undersigned, being of the age of eighteen (18) years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a non-profit corporation under Chapter 55A of the General Statutes of North Carolina and the several amendments thereto.

I

NAME

The name of the corporation is Bay Creek Association, Inc., hereinafter referred to as the Association.

II

DURATION

The period of duration of the corporation is perpetual.

III

PURPOSES

The purpose for which the Association is organized is to provide an entity pursuant to the Unit Ownership Act, Chapter 47A of the North Carolina General Statutes, for the operation of not more than one hundred twenty-sixty (126) condominium units in the Bay Creek Condominiums, in the City of Durham, County of Durham, State of North Carolina, according to the Declaration now or hereinafter recorded in the Office of the Register of Deeds of Durham County. This Association does not contemplate pecuniary gain or profit to the members thereof and is formed to provide for maintenance, preservation and architectural control to such properties as may hereinafter be brought within the jurisdiction of this corporation as provided herein.

IV

POWERS

The powers of the Association shall include and be governed by the following provisions:

- (1) The Association shall have all of the common law and statutory powers of corporations organized under Chapter 55A of the General Statutes of North Carolina that do not conflict with the terms of these Articles.

(2) The Association shall have all of the powers and duties set forth in the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes, except as limited by these Articles and the respective Declaration of Bay Creek Condominiums, and all of the powers and duties reasonably necessary to operate and maintain the Bay Creek Condominiums pursuant to the said Declaration, as amended from time to time including, but not limited to, the following:

- (A) To make and collect assessments against members as unit owners to defray the common costs and expenses of the condominium.
- (B) To use the proceeds of assessments in the exercise of its powers and duties.
- (C) To maintain, repair, replace and operate the condominium property including the common areas and facilities.
- (D) To purchase insurance upon the condominium property and insurance for the protection of the Association and its members as unit owners.
- (E) To reconstruct improvements after casualty and to further improve the property.
- (F) To make and amend reasonable Rules and Regulations respecting the use of the property in the condominium.
- (G) To contract for the management of the condominium property with a third party and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the respective Declaration or Bylaws to have approval of the Board of Directors or the membership of the Association.
- (H) To enforce by legal means the provisions of the Unit Ownership Act, Chapter 47A of the North Carolina General Statutes, the Declaration, these Articles, the Bylaws of the Association and the Rules and Regulations for the use of the property in the condominium.
- (I) To employ personnel to perform the services required for proper operation of the condominium.

3. All funds and the titles of all properties acquired by the Association shall be held in trust for the members in accordance with the provisions of the said Declaration, these Articles, and the Bylaws.

V

MEMBERS

1. The members of the Association shall be the record owners of condominium units in the Bay Creek Condominiums. Upon a termination of the condominium the members shall consist of those who are members at the time of such termination and their successors and assigns.

2. After receiving approval of the Association required by the said Declaration, change of membership in the Association shall be established by recording in the Office of the Register of Deeds of Durham County, North Carolina, a deed or other instrument establishing a record title to a unit in the condominium and the delivery to the Association of a certified copy of such instrument. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

3. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance to his unit.

4. The exact number of votes a shareholder shall be entitled to cast at Association meetings shall be equal to his percentage of ownership in the common areas and facilities applicable to his unit ownership as recited in the Declaration of Bay Creek Condominiums, as amended, from time to time.

5. If a unit is owned by more than one person, or is under lease, or is owned by a corporation, partnership, joint venture or other entity, the designation of a voting representative shall be made as provided in the Bylaws and such voting representative for purposes of this Article shall be considered to be the "member".

VI

SHARES

The corporation is to have no capital stock. Every person or entity who is a record owner of a fee or undivided fee interest in any condominium unit in Bay Creek Condominiums shall be a member of the Association as defined in Article V herein. Membership shall be appurtenant to and may not be separated from ownership of any condominium unit which is subject to assessment by the Association.

VII

PREEMPTIVE RIGHTS

The shareholders of the corporation shall have no preemptive right to acquire additional or treasury shares of the corporation.

VIII

REGISTERED AGENT

The address of the initial registered office of the corporation in the State of North Carolina is 411 Andrews Road, City of Durham, County of Durham, State of North Carolina; and the name of its initial registered agent at such address is Jack K. Ward.

IX

DIRECTORS

(A) The number of directors constituting the initial Board of Directors shall be three (3); and the names and addresses of the persons who are to serve as directors until the first meeting of the members of the Association, or until their successors be elected and qualify, are:

| <u>NAME</u> | <u>ADDRESS</u> |
|------------------|---|
| Jack K. Ward | 411 Andrews Road, Unit 110, Durham County, Durham, North Carolina 27705 |
| Bobby R. Roberts | 411 Andrews Road, Unit 110, Durham County, Durham, North Carolina 27705 |
| Dennis B. Mangum | 411 Andrews Road, Unit 110, Durham County, Durham, North Carolina 27705 |

(B) The first election of directors by the members of the Association shall not be held until after the Developer, Roberts Construction Company, a North Carolina corporation, has closed the sale of not less than seventy-five percent (75%) of Bay Creek Condominiums, or until the Developer elects to terminate its control of the said condominium or until after March 1, 1986, whichever occurs first. The directors named in these Articles shall serve until the first election of directors, and any vacancies in their number occurring before the first election shall be filled by the remaining directors.

X

BYLAWS

The first Bylaws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded in the manner provided by the Bylaws.

XI

AMENDMENTS

Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

- (A) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.
- (B) A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval or disapproval in writing, provided such approval or disapproval is delivered to the Secretary at or prior to the meeting.
 - (1) An amendment must be approved by not less than 75% of the entire membership of the Board of Directors and by not less than 75% of the votes of the entire membership of the Association; or
 - (2) By not less than 80% of the votes of the entire membership of the Association.
- (C) Provided, however, that no amendment shall make any changes in the qualifications for membership nor the voting rights of members, without approval in writing by all members and the joinder of all record owners of mortgages upon the Bay Creek Condominiums. No amendment shall be made that is in conflict with the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes, as amended, or the Declaration of Bay Creek Condominiums, as amended, and on file in the Office of the Register of Deeds of Durham County, North Carolina.

XII

DEFINITIONS

(A) The definitions contained in the Unit Ownership Act, Chapter 47A, of the North Carolina General Statutes, as amended, are hereby adopted to the extent that such definitions are applicable to these Articles of Incorporation.

(B) The term "Developer" means Roberts Construction Company, a North Carolina corporation.

(C) The term "Bay Creek Condominiums" means collectively those condominium units and property whose Declaration under the North Carolina Unit Ownership Act are executed by the Developer and in which Declaration this Association is designated as operating entity.

XIII

INCORPORATORS

The name and address of the incorporator is:

Jack K. Ward
411 Andrews Road, Unit 110
Durham, North Carolina 27705

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd day of September, 1986.

Jack K. Ward (SEAL)
JACK K. WARD

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

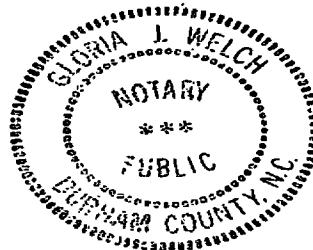
I, *Gloria J. Welch*, a Notary Public, do hereby certify that JACK K. WARD personally appeared before me this day and acknowledged the due execution of the foregoing Articles of Incorporation.

WITNESS my hand and notarial seal, this 23rd day of September, 1986.

Gloria J. Welch
Notary Public

My commission expires:

My Commission Expires 5-17-88





NORTH CAROLINA

Department of the Secretary of State

To all whom these presents shall come, Greetings:

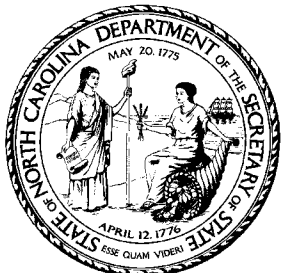
I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF AMENDMENT

OF

HUDSON HEIGHTS CONDOMINIUM ASSOCIATION

the original of which was filed in this office on the 20th day of February, 2023.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 20th day of February, 2023.

Elaine F. Marshall

Secretary of State

State of North Carolina Department of the Secretary of State

ARTICLES OF AMENDMENT NONPROFIT CORPORATION

Pursuant to §55A-10-05 of the General Statutes of North Carolina, the undersigned corporation hereby submits the following Articles of Amendment for the purpose of amending its Articles of Incorporation.

1. The name of the corporation is: Bay Creek Association, Inc.
2. The text of each amendment adopted is as follows (state below or attach):
 - a. Article I is amended such that the name of the corporation is changed to be: **Hudson Heights Condominium Association**. All references in the Articles of Incorporation to the corporation shall be to Hudson Heights Condominium Association, and all references to the condominium established by the Declaration of Condominium referenced below in Section 2.e. hereof shall be to Hudson Heights Condominium.
 - b. Article VII is hereby deleted.
 - c. Article VIII is hereby amended such that the registered office of the corporation is changed to be 123 W Main St., Ste. M-08, Durham, North Carolina 27701, and the registered agent at such address is changed to be Gary Berman.
 - d. Article IX is hereby deleted in its entirety and replaced with the following:

Article IX

DIRECTORS

(A) The number of directors constituting the initial board of directors existing during the Period of Declarant control shall be one (1), and the name and address of the initial director is Kenneth M. Gorfkle, 3 Lanier Drive, Chapel Hill, NC 27517.

(B) Not later than the termination of the Period of Declarant Control, the unit owners shall elect an executive board of at least three (3) members, at least a majority of whom must be unit owners.

Not later than 60 days after conveyance of twenty-five percent (25%) of the units to unit owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the executive board shall be elected by unit owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the units to unit owners other than a Declarant, not less than thirty-three

percent (33%) of the members of the executive board shall be elected by unit owners other than the Declarant.

The "Period of Declarant Control" means the time in which the Declarant controls the board of directors. The Period of Declarant Control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the units to unit owners other than a Declarant; or (ii) two years after Declarant has ceased to offer units for sale in the ordinary course of business.

e. Article XII, Sections (B) and (C) are hereby deleted and replaced with the following:

(B) The term "Declarant" used in the Articles of Incorporation shall mean and refer to 1309 Hudson Avenue, LLC, a North Carolina limited liability company.

(C) The term "Hudson Heights Condominium" shall mean and refer to the condominium of the same name as more fully described in that certain Declaration of Bay Creek Condominiums recorded in Book 1314, Page 168, Durham County Registry, as amended by that certain First Amendment to Declaration of Bay Creek Condominiums recorded in Book 3521, Page 823, Durham County Registry together with the plat and plans thereof recorded in Plat Book 113, Page 83, Durham County Registry and Condominium Plat Book 4, Pages 20 through 64, Durham County Registry, as the same may be amended from time to time.

3. The date of adoption of each amendment was February 14, 2023.
4. The foregoing amendments were approved by 100% of members of the corporation and the board of directors of the corporation.
5. These articles will be effective upon filing.

This the 14th day of February, 2023.

Bay Creek Association, Inc.

By: Kenneth M. Gorfkle

Name: Kenneth M. Gorfkle

Title: President

EXHIBIT E

BYLAWS

OF

BAY CREEK ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

1. Name: The name of this Association shall be Bay Creek Association, Inc.
2. Principal Office: The principal office of the Association shall be located at 411 Andrews Road, Unit 110, Durham, North Carolina 27705, or at such other location as may from time to time be determined by the Board of Directors of the Association.
3. Registered Office: The registered office of the Association may be, but need not be, identical with the principal office. The Association may have offices at such other places within Durham County, North Carolina, as the Board of Directors may from time to time determine.

ARTICLE II

PLAN OF UNIT OWNERSHIP

1. Unit Ownership: The property located in the County of Durham, State of North Carolina, and more particularly described in the Declaration to which these Bylaws are attached has been submitted to the provisions of Chapter 47A of the North Carolina General Statutes entitled "Unit Ownership Act" by the Declaration recorded in the Office of the Register of Deeds of Durham County, State of North Carolina, simultaneously herewith, and shall be known as BAY CREEK CONDOMINIUMS (hereinafter sometimes called the "Condominium").
2. Applicability of Bylaws: The provisions of these Bylaws are applicable to the property of the Condominium and to the use and occupancy thereof. The term "Property" as used herein shall include the land, the buildings and all other improvements thereon (including the units, the common areas and facilities and the limited common areas and facilities), owned in fee simple absolute, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, and fixtures, intended for use in connection therewith.
3. Application: All present and future owners, mortgagees, lessees and occupants of units and their employees, and any other persons who may use

the facilities of the property in any manner are subject to the Declaration, these Bylaws and Rules and Regulations made pursuant hereto, and any amendment to the Declaration, these Bylaws or the Rules and Regulations upon the same being duly adopted.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a unit shall constitute an agreement that these Bylaws (and any Rules and Regulations made pursuant hereto) and the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified, and will be complied with.

4. Members Qualifications: The members of the corporation shall consist of all of the record owners of units in the Bay Creek Condominium. Purchase or other acquisition of the freehold interest of a unit in said Condominium shall automatically make the owner thereof a member of the Association upon recordation of the Deed.

ARTICLE III

ASSOCIATION MEETINGS

1. Membership: The record owners of each unit shall be members and shall have voting rights as hereinafter set forth.

2. Place of Meetings: All meetings of the Bay Creek Association, Inc. (hereinafter referred to as the "Association") shall be held at such place within the State of North Carolina as shall be designated in a notice of the meeting.

3. Organizational Meeting: Until the Developer, Roberts Construction Company, a North Carolina corporation, or its successor, has completed and sold seventy-five (75%) percent of the units of the Condominium project or until March 1, 1986, or until the Developer elects to terminate its control of the Condominium, whichever shall occur first, there shall be no meeting of the members of the Association unless a meeting is called by the Board of Directors.

4. Annual Meetings: An annual meeting of the Association shall be held at 7:00 o'clock p.m. on the 16th day of March of each year for the purpose of electing members of the Board of Directors and for the transaction of such other business as may be properly brought before the meeting.

5. Substitute Annual Meetings: If the annual meeting shall not be held on the day designated by the Bylaws, a substitute annual meeting may be

called in accordance with the provisions of Section 6 of this Article. A meeting so called shall be designated and treated for all purposes as the annual meeting.

6. Special Meetings: Special meetings of the Association may be called at any time by the President, a majority of the Board of Directors or upon written request of not less than 50% in common interest of the unit owners.

7. Notice of Meetings: Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed not less than ten (10) nor more than thirty (30) days before the date thereof, either personally or by mail at the direction of the Board of Directors or unit owners calling the meeting, to each person entitled to vote at such meeting.

In the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless it is a matter other than the election of Directors or which the vote of unit owners is expressly required by the provisions of the North Carolina Unit Ownership Act. In the case of a special meeting, the notice of meeting shall specifically state the purposes for which the meeting is called.

When a meeting is adjourned for thirty (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 (30) 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 effective.

8. Quorum: The presence in person or by proxy at any meeting of the voting members (as defined in the Declaration) having a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein or in the Declaration or by North Carolina law, any action may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes present at such meeting. If there is no quorum at the opening of the meeting of the Association, such meeting may be adjourned from time to time by the vote of a majority of the voting members present, either in person or by 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 voting members at a meeting at which a quorum is present may

continue to do business until adjournment, notwithstanding the withdrawal of enough voting members to leave less than a quorum.

9. Voting Rights: The designation of the voting representative and his voting rights are set forth in Paragraph 12 (c)(3) "Operating Entity" of the Declaration. The total number of votes of all voting members shall be 100 and each owner or group of owners (including the Board of Directors, if it or its designee shall then hold title to one or more unit(s) shall be entitled to the number of votes equal to the total of the percentage of ownership in the common areas and facilities applicable to his or their unit ownership.

10. Waiver of Notice: Any unit owner may, at any time waive notice of any meeting of the Association in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a unit owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a unit owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the unit owners are present at any meeting of the Association no notice shall be required and any business may be transacted at such meeting.

11. Informal Action by Unit Owners: Any action which may be taken at a meeting of the Association 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, (that is, the voting members) and filed with the Secretary of the Association to be kept in the Association Minute Book.

12. Fiscal Year: The fiscal year of the Association shall be the calendar year.

13. Order of Business: The order of business at annual meetings of the Association's members, and as far as practical at other meetings of the members shall be:

- (A) Election of Chairman of the meeting.
- (B) Calling of the roll and certifying of proxies.
- (C) Proof of notice of meeting or waiver of notice.
- (D) Reading and disposal of any unapproved minutes.
- (E) Reports of officers.
- (F) Reports of Committees.
- (G) Election of inspectors of election.

- (H) Election of directors.
- (I) Unfinished business.
- (J) New business.
- (K) Adjournment

Until the Developer, Bay Creek, a North Carolina corporation, or its successor, has completed and sold seventy-five (75%) percent of the units, or until March 1, 1986, or until the Developer elects to terminate its control of the Condominium, whichever shall occur first, the proceedings of all meetings of members of the Association shall have no effect unless approved by the Board of Directors. The Developer shall signify its termination of control by advising each of the then unit owners in writing of its intention to do so.

ARTICLE IV

BOARD OF DIRECTORS

1. General Powers: The business and property of the Condominium shall be managed and directed by the Board of Directors or by such Executive Committee as the Board may establish pursuant to these Bylaws.

2. Number, Term and Qualification:

(a) The Initial Board of Directors of the Association, as set forth in the corporate charter shall serve until the Developer has completed and sold seventy-five percent (75%) of the units, or until Developer elects to terminate its control of the Condominium, or until March 1, 1986, (as specified in Article III) whichever shall first occur. In the event of vacancies, the remaining directors shall fill the vacancies; and if there are no remaining directors, the vacancies shall be filled by the Developer.

(b) Upon the occurrence of one of the events in subparagraph (a) above, the size of the Board of Directors may be increased or decreased from time to time upon the affirmative vote of two-thirds (2/3) of the total of the unit owners, provided that said Board shall not be less than three in number. Each Director shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies. Upon termination of control by the Developer, each member of the Board shall be one of the owners or co-owners or a spouse of an owner or co-owner; provided, however, that in the event an owner is a corporation, partnership,

trust or other legal entity other than a natural person or persons, then any officer or director of such corporation, partner of such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board.

3. Election of Directors: Except as provided in Section 5 of this Article, the Directors shall be elected at the annual meeting of the Association; and those persons who receive the highest number of votes shall be deemed to have been elected.

4. Removal: Directors may be removed from office with or without cause by affirmative vote of the unit owners having a majority of the total votes entitled to vote at an election of directors. If any directors are so removed, new directors may be elected at the same meeting.

5. Vacancies: A vacancy occurring in the Board of Directors, including directorships not filled by the unit owners, may be filled by a majority of the remaining Directors, though less than a quorum, or by the sole remaining Director; but a vacancy created by an increase in the authorized number of Directors shall be filled only by election at an annual meeting or a special meeting of unit owners called for that purpose. Voting members may elect a Director at any time to fill any vacancy not filled by the Directors.

6. Compensation: The Board of Directors shall receive no compensation for their services unless expressly allowed by the Board at the direction of the unit owners having two-thirds (2/3) of the total votes.

7. Executive Committee: The Board of Directors may, by resolution adopted by a majority of the number of Directors fixed by these Bylaws, designate two or more Directors to constitute an Executive Committee, which committee to the extent provided in such resolution shall have and may exercise all of the authority of the Board of Directors in the management of the Condominium.

8. Powers and Duties: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things, except such acts as by law or by the Declaration or by these Bylaws may not be delegated to the Board of Directors. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

(a) Operation, care, upkeep and maintenance of the common areas and facilities.

(b) Determination of the common expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the property.

(c) Collection of the common charges from the unit owners.

(d) Employment and dismissal of the personnel necessary for the maintenance and operation of the common areas and facilities, including the employment of a manager for the Condominium property.

(e) With the consent of the unit owners having sixty (60%) percent of the total votes, the adoption and amendment of such reasonable Rules and Regulations as it may deem advisable for the maintenance, conservation, and beautification of the Condominium property, and for the health, comfort, safety and general welfare of the owners and occupants of the said property. Written notice of such Rules and Regulations shall be given to all owners and occupants, and the entire Condominium property shall at all times be maintained subject to such Rules and Regulations.

(f) Opening of bank accounts on behalf of the Condominium and designating the signatories required therefor.

(g) Purchasing of units at foreclosure or other judicial sales in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of all unit owners.

(h) Selling, mortgaging, voting appurtenant to or otherwise dealing with units acquired by the Board of Directors or its designee, corporate or otherwise, on behalf of all unit owners subject to the Declaration and other applicable restrictions.

(i) Organizing corporations or other entities to act as designees of the Board in acquiring possession or title to units on behalf of all unit owners.

(j) Maintaining and repairing any unit, if such maintenance or repair is necessary in the discretion of the Board or by operation of applicable restrictions to protect the common areas and facilities or any other portion of the building, and an owner of any unit has failed or refused to perform such maintenance or repair within a reasonable

time after written notice of the necessity of said maintenance or repair delivered or mailed by the Board to said owner, provided that the Board shall levy a special assessment against such owner for the costs of said maintenance or repair.

(k) Entering any unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the occupant as practicable, and any damage caused thereby shall be repaired by the Board and such expense shall be treated as a common expense.

(l) Granting easements, signing all agreements, contracts, deeds and vouchers for payment of expenditures and other instruments in such manner as from time to time shall be determined by written resolution of the Board.

(m) Obtaining of insurance for the Condominium property, including the units, pursuant to the provisions of Paragraph 16 of the Declaration.

(n) Making of repairs, additions and improvements to or alterations of the Condominium property and repairs to and restoration of the said property in accordance with the other provisions of these Bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.

9. Managing Agent: The Board of Directors for the Condominium may engage the service of any person, firm or corporation to act as managing agent at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize including, but not limited to, the duties listed in subdivisions (a), (c), (d), (j), (k), (m), (n) of Section 8 of this Article IV. The Board may delegate to the managing agent, all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in subdivisions (b), (e), (f), (g), (h), (i), and (l) of Section 8 of this Article IV.

10. Assessments: The Board of Directors shall make and collect assessments against members to defray the costs and expense of the Condominium properties. The unit owners are bound to contribute pro rata in accordance

with their percentage interest in the common areas and facilities.

11. Regulations: The Board of Directors shall make and amend reasonable Rules and Regulations respecting the use of the Condominium property and the common areas and facilities. Rules and Regulations of the Association, until amended, shall be as set forth in the Schedule "A" attached hereto. Unit owners shall at all times obey such Rules and Regulations and amendments thereto, and use their best efforts to see that they are faithfully observed by lessees, employees, invitees, and persons over whom they have or may exercise control and supervision. It being understood that such Rules and Regulations and amendments thereto, shall apply and be binding upon all unit owners and their tenants. Provisions of the North Carolina Unit Ownership Act pertaining to Rules and Regulations are incorporated herein by reference and shall be deemed a part hereof.

12. Enforcement: The Board of Directors shall enforce by legal means the provisions of the Unit Ownership Act, Declaration of Bay Creek Condominiums, the Articles of Incorporation, these Bylaws and the Rules and Regulations for the use of the Condominium property and the common areas and facilities.

ARTICLE V

MEETINGS OF DIRECTORS

1. Organization Meeting: The organizational meeting of the newly elected members of the Board of Directors shall immediately follow the initial meeting of the unit owners. No notice shall be necessary to the newly elected members of the Board of Directors in order to legally constitute such meeting, providing a quorum shall be present.

2. Regular Meeting: A regular meeting of the Board shall be held immediately after, and at the same place as the annual meeting or substitute annual meeting of the unit owners. In addition, the Board of Directors may provide by resolution the time and place within the State of North Carolina for the holding of a regular meeting of the Board.

3. Special Meeting: Special meetings of the Board of Directors may be called by the Chairman, the President of the Association or by any two Directors. Notice of the meeting shall be given orally or in writing at least 24 hours before the time fixed for the meeting.

4. Notice of Meetings: Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of Directors shall, at least two 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. Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.

5. Waiver of Notice: Any member of the Board of Directors may, at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof except where a director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

6. Quorum: A majority of the number of Directors fixed by these Bylaws as amended from time to time, shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

7. Manner of Acting: Except as otherwise provided in this section, 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.

A vote of a majority of the number of Directors fixed by the Bylaws shall be required to adopt a resolution creating an Executive Committee. The vote of a majority of the Directors then holding office shall be required to adopt, amend, or repeal a Bylaw, provided that no modification of or amendment to the Bylaws shall be effective until recorded in the Office of the Register of Deeds of Durham County, North Carolina. Vacancies in the Board of Directors may be filled as provided in Article IV, Section 5, of these Bylaws.

8. Organization: Each meeting of the Board of Directors shall be presided over by the Chairman of the Board, and in the absence of the

Chairman, by any person selected to preside by vote of the majority of the Directors present. The Secretary, or in his absence, an Assistant Secretary, or in the absence of both the Secretary and Assistant Secretary, any person designated by the Chairman of the meeting, shall act as Secretary of the meeting.

9. Informal Action of 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 of the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

10. Minutes: The Board shall keep written minutes of its proceedings.

11. Fidelity Bonds: The Board of Directors may require all officers and employees of the Condominium handling or responsible for Condominium funds to be covered by an adequate fidelity bond. The premium on such bonds shall constitute a common expense.

12. Liability of the Board: The members of the Board of Directors shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Condominium, except to the extent they are unit owner(s). It is also intended that the liability of any unit owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability thereunder as his interest in the common areas and facilities bears to the interests of all the unit owners in the common areas and facilities. Every agreement made by the Board or by the managing agent on behalf of the Condominium shall incorporate by reference all of the terms and provisions of the said Declaration and these Bylaws. Each unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common areas and facilities bears to the interest of all unit owners in the common areas and facilities.

13. Amendments:

(A) Except as otherwise provided herein, these Bylaws may be amended or repealed and new Bylaws may be adopted by the affirmative vote of

a majority of the directors then holding office at any regular or special meeting of the Board of Directors. However, the Board of Directors shall have no power to adopt a Bylaw: (1) requiring more than a majority of the votes cast to constitute action by the members of the Association, except where higher percentages are otherwise required herein; (2) providing for the management of the Association otherwise than by the Board of Directors or its Executive Committee; (3) increasing or decreasing the number of directors; or (4) classifying and staggering the election of directors.

(B) A resolution amending or repealing the Bylaws may also be proposed by the members of the Association. Members not present in person or by proxy at the meetings considering the amendment may express their approval or disapproval in writing, providing such notice is delivered to the Secretary at or prior to the meeting. Such approval must be by the affirmative vote of at least 60% of the entire membership of the Association.

(C) No amendment shall discriminate against any unit owner or against any unit or class or group of units unless the unit owners so affected shall consent. No amendment shall change any condominium unit nor the share in the common elements appurtenant to it, nor increase an owner's share of the common expenses, nor change the voting rights of the members unless the record owners of the units concerned and all record owners of liens thereon shall join in the execution of the amendment.

(D) A copy of each amendment to the Bylaws shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the public records of Durham County, North Carolina, pursuant to the Unit Ownership Act.

14. Adjourned Meetings: If at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business that might have been transacted at the meeting as originally called may be transacted without further notice.

15. Order of Business: The order of business at the annual director's meeting and as far as practical at other meetings of the directors shall be:

- (a) Calling of roll.
- (b) Proof of due notice of meeting.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers and committees.
- (e) Election of officers.
- (f) Unfinished business.
- (g) New business.
- (h) Adjournment.

ARTICLE VI

OFFICERS

1. Numbers: The officers of the Association shall be a President, who shall be a director, one or more Vice Presidents, a Treasurer, a Secretary and such Assistant Treasurers, Assistant Secretaries and other officers as the Board of Directors may from time to time elect. Any person may hold two or more offices except that the President shall not also be the Secretary or an Assistant Secretary.

2. Election and Term: The officers of the Condominium shall be elected by the Board of Directors. Such elections may be held at the regular annual meeting of the Board. Each officer shall hold office for a period of one year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

3. Removal: Any officer or agent elected or appointed by the Board of Directors may be removed by the Board with or without cause; but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

4. Compensation: The compensation of all officers and employees of the Association shall be fixed by the Board of Directors; provided that the Board may delegate authority to fix the compensation of employees to the President.

5. Chairman of the Board: The President and Chairman of the Board shall be the principal officers of the Condominium and, subject to the control of the Board of Directors, shall supervise and control the management of the Condominium. The Chairman shall when present, preside at all meetings of the Board and of the unit owners and, in general, shall perform all duties incident to the office of Chairman of the Board and such other duties as may be prescribed from time to time by the Board.

6. Vice-Chairman: The Vice-Chairman shall, in the absence or disability of the Chairman, have the powers and perform the duties of said office. In addition, each Vice-Chairman shall perform such other duties and have such other powers as shall be prescribed by the Chairman of the Board.

7. President: The President shall be the chief executive officer of the Bay Creek Association, Inc., and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Association all

conveyances, mortgages, deeds of trust, and material contracts, and shall do and perform all acts and things as the Board of Directors may direct from time to time. He shall approve payment of vouchers by initialling the same which shall be authority for the appropriate officer to pay same. The President shall be invited to attend meetings of each special committee, and shall in each case, be an ex-officio member of each committee.

8. Vice Presidents: The Vice President, or the Senior Vice President if there be more than one Vice President, in the absence or disability of the President, shall exercise all of the powers and perform all of the duties of the President or as may be directed by the Board of Directors. If the Board of Directors shall elect more than one Vice President, the Board shall designate the order of seniority of such Vice Presidents.

9. Secretary: The Secretary shall keep accurate records of the acts and proceedings of all meetings of unit owners and Directors. He shall give, or cause to be given, all notices required by law and by these Bylaws. He shall have general charge of the minute books, seal and records of both unit owners and the Board. He shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned him from time to time by the Directors. An Assistant Secretary may be elected who shall in the event of the Secretary's absence or disability perform the duties and functions of the Secretary.

10. Treasurer: The Treasurer shall have custody of all Condominium funds and securities and shall receive, deposit or disburse the same under the direction of the Board of Directors. He shall keep full and accurate accounts of the finances of the Condominium in books especially provided for that purpose. He shall cause a true statement of its assets and liabilities as of the close of each fiscal year, and of the results of its operations and of changes in surplus for such fiscal year, all in reasonable detail, to be prepared and distributed to all unit owners and members of the Board of Directors on or before the 15th day of the third month following the close of each fiscal year. The statement so filed shall be kept available for inspection by any unit owner for a period of three (3) years. The Treasurer shall also prepare and file all reports and returns required by Federal,

State or local law and shall generally perform all other duties as may be assigned to him from time to time by the Chairman of the Board or the Board of Directors.

11. Assistant Secretaries and Treasurers: The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary and the Treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall in general perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the Chairman of the Board or the Board of Directors.

ARTICLE VII

FISCAL MANAGEMENT

1. Fiscal Management: The provisions for the financial management of the Association set forth in the Declaration, as amended, and the Articles of Incorporation, as amended, shall be supplemented by the following provisions.

2. Accounts: The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be common expenses:

(A) "Current expenses," which shall include all receipts and expenditures within the fiscal year for which the budget is made including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or to additional improvements. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses of the succeeding year.

(B) "Reserve for deferred maintenance," which shall include funds for maintenance items that occur less frequently than annually.

(C) "Reserve for replacement," which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.

(D) "Betterments," which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the condominium elements.

3. Budget: The Board of Directors shall adopt a budget for each fiscal year which shall include the estimated funds required to defray the common expense and to provide and maintain funds for the foregoing accounts and reserves in accordance with generally accepted accounting principles as follows:

(A) "Current expenses," the amount of which shall not exceed by 15% the amount budgeted for this account for the prior year.

(B) "Reserve for deferred maintenance," the amount of which shall not exceed 10% of the amount budgeted for this account for the prior year.

The amount of each budgeted item may be increased over the foregoing limitations when approved by unit owners entitled to cast not less than 51% of the votes of the entire membership of the Association. Provided, however, that until the Developer of the Condominium has completed all of the contemplated improvements and closed the sale of not less than seventy-five percent (75%) of the units, or until the Developer elects to terminate its control of the Condominium, whichever shall first occur, the Board of Directors may omit from the budget all allowances for contingencies and reserves. Provided, further, that the first Board of Directors elected by the members of the Association may fix the budget for the first year at any level the Directors may determine. Thereafter, the restrictions on increases in the budget in paragraphs (A) and (B) above will be effective.

Copies of the Budget and proposed assessments shall be transmitted to each unit owner at least twenty (20) days prior to the annual meeting of Association members.

4. Determination of Common Expenses and Fixing of Common Charges: The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium, determine the amount of the common charges payable by the unit owners to meet the common expenses of the Condominium, and allocate and assess such common charges among the unit owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of the Declaration. The common expenses may also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the Condominium property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase by the Board of Directors or its designee, on behalf of all unit owners, of any unit which is

to be sold at a foreclosure or other judicial sale. The Board of Directors shall advise all unit owners promptly in writing of the amount of common charges payable by each of them, respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each budget on which such common charges are based to all unit owners.

5. Payment of Common Charges: All unit owners shall be obligated to pay the common charges assessed by the Board of Directors pursuant to the provisions of Section 10 of Article IV at such time or times as the Board shall determine.

No unit owners shall be liable for the payment of any part of the common charges assessed against his unit subsequent to a sale, transfer or other conveyance by him of such unit, together with his interest in the common areas and facilities as defined in the Declaration. A purchaser of a unit shall be jointly and severally liable with the seller for the payment of common charges assessed against such unit prior to the acquisition by purchaser of such unit without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefor. Provided that a mortgagee or other purchaser of a unit at a foreclosure sale of such unit shall not be liable for and such unit shall not be subject to a lien for the payment of common charges assessed prior to the foreclosure sale. Such unpaid common charges shall be deemed to be common charges collectible from all of the unit owners including such purchaser, his successor and assigns.

6. Collection of Assessments: The Board of Directors shall assess common charges against the unit owners from time to time and at least annually and shall take prompt action to collect any common charge due from any unit owner which remains unpaid for more than thirty (30) days from the due date for payment thereof.

7. Default in Payment of Common Charges: In the event of default by any unit owner in paying to the Board of Directors the common charges as determined by the Board, such unit owner shall be obligated to pay interest at the maximum legal rate on such common charges from the due date thereof, (but not to exceed the monthly rate of one and one-half percent (1-1/2%)), together with all expenses, including attorneys' fees (if permitted by law), incurred by the Board in any proceeding brought to collect such unpaid common charges. The Board shall have the right and duty to attempt to recover such

common charges, together with interest thereon, and the expenses of the proceeding, including attorneys' fees in any action to recover the same brought against such unit owner, or by foreclosure of the lien on such unit in like manner as a note, deed of trust or mortgage of real property,

8. Foreclosure of Liens for Unpaid Common Charges: In any action brought by the Board to foreclose on a unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all unit owners, or on behalf of any one or more individual unit owners if so instructed, shall have the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same, subject, however, to applicable restrictions of record and the provisions of the Declaration. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

9. Statement of Common Charges: The Board of Directors shall promptly provide any unit owner so requesting the same in writing, with a written statement of all unpaid common charges due from such unit owner.

10. Abatement and Enjoinment of Violations by Unit Owners: The violation of any Rule or Regulation adopted by the Board or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set forth in these Bylaws: (a) to enter the unit in which or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

11. Maintenance and Repairs: (a) All maintenance and any repairs to any unit, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common areas and facilities contained therein and not necessitated by the negligence, misuse or neglect of the owner of such unit) shall be made by the owner of such unit. Each unit owner

shall be responsible for all damages to any and all other units and/or to the common areas and facilities that his failure so to do may engender; (b) All maintenance, repairs and replacements to the common areas and facilities, whether located inside or outside of the units (unless necessitated by the negligence, misuse or neglect of a unit owner, in which case such expense shall be charged to such unit owner), shall be made by the Board and be charged to all the unit owners as a common expense.

12. Restrictions as to Use: The use of the property of the Condominium shall be in accordance with the following provisions:

(a) Each of the units shall be occupied only for residential purposes, and shall not be used for any purpose which is not permissible under applicable zoning regulations. No unit may be divided into smaller units or any portion thereof sold without first amending the Declaration. No unit may contain less than eight hundred fifty (850) square feet.

(b) The common elements shall be used for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the units.

(c) No use or practice shall be permitted on the property which is the source of annoyance to unit owners or which interferes with the peaceful possession and proper use of the property by the unit owners. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage allowed to accumulate nor any fire hazard allowed to exist. It shall be the responsibility of each unit owner and the Board of Directors to prevent the development of conditions which render the property or the building unclean, unsightly or unkept or which substantially decrease the beauty of the area as a whole. No unit owner shall permit any use of his unit or of the common elements which will increase the rate of insurance upon the Condominium property. No immoral, improper, offensive, or unlawful use shall be made of the Condominium property or any part thereof. All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification, or repair of the Condominium property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(d) Until the Developer has completed and sold one hundred sixty (160) units, neither the unit owners nor the Association shall interfere with the sale of additional units. The Developer may make such use of the unsold units and common areas as may facilitate such completion and sale, including but not limited to the rental of same, the showing of the property, and the display of "For Sale" and "For Rent" signs.

13. Right of Access: A unit owner shall grant a right of access to his unit to the managing agent and/or any other person authorized by the Board of Directors or the managing agent, for the purpose of making inspections or for the purpose of correcting any condition originating in his unit and threatening another unit or a common area and facility, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other common areas and facilities in his unit or elsewhere in the building or to correct any condition which violates the provisions of any mortgage covering another unit, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether the unit owner is present at the time or not.

14. Rules of Conduct: Rules and regulations concerning the use of the units and the common areas and facilities may be promulgated and amended by the Board. Copies of such rules and regulations shall be furnished by the Board to each unit owner prior to the time when the same shall become effective.

15. Equipment: Each unit owner shall own and be responsible for the maintenance, repair and replacement of the equipment within his unit including but not limited to the following: hot water heater, electric panel and service, furnace, air conditioner, plumbing fixtures and pipes or drains which may become clogged.

16. Water and Sewer Charges: Water and sewer service shall be provided by the City of Durham directly to each unit through a separate meter, and each unit owner shall pay his bill for water and related sewer service. The water and sewer service for the common areas and facilities shall be paid for as a common expense.

17. Electricity: Electricity shall be supplied by the public utility company serving the area directly to each unit through a separate meter, and

each unit owner shall be required to pay the bills for electricity consumed or used in his unit. The electricity serving the common areas and facilities shall be separately metered, and the Board of Directors shall pay all bills for electricity consumed in any portions of the common areas and facilities as a common expense.

18. Emergency Assessments: Assessments for common expenses of emergencies that cannot be paid from the annual assessments for common expense shall be made only after notice of the need for such is given to the unit owners concerned. After such notice and upon approval by persons entitled to cast more than one-half of the votes of the unit owners concerned, the assessment shall become effective, and it shall be due after 30 days notice in such manner as the Board of Directors of the Association may require in the notice of assessment.

19. Bank Depository: The depository of the Association shall be such bank or banks (including savings and loan associations) as shall be designated from time to time by the Directors and in which the moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by checks signed by such person or persons as are authorized by the Directors.

ARTICLE VIII

RECORDS AND AUDITS

1. Records: The Board of Directors shall keep detailed records of the acts of the Board and the managing agent, minutes of the meetings of the Board, minutes of the meetings of the unit owners, and financial records and books of account of the Condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each unit which, among other things, shall contain the amount of each assessment of the common charges against such unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. The financial record and books of account shall be available for examination by all the unit owners, their duly authorized agents or attorneys at convenient hours on working days that shall be set and announced for general knowledge. A written report summarizing all receipts and expenditures of the Condominium shall be rendered by the Board to all unit owners on or before the 15th day of the third month following the close of each fiscal year covering the preceding year. In addition, an

annual report of the receipts and expenditures of the Condominium, prepared by a certified public accountant selected by the Board, shall be rendered by the Board to all unit owners and to all mortgagees of units who have requested the same, promptly after the end of each fiscal year.

ARTICLE IX

PARLIAMENTARY RULES

1. Robert's Rules: Robert's Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, Articles of Incorporation, or these Bylaws.

The foregoing were adopted as the Bylaws of Bay Creek Association, Inc., a corporation organized under the laws of the State of North Carolina, at the first meeting of the Board of Directors on the _____ day of _____, 1985.

Secretary

EXHIBIT B

Amendment to Bylaws of Hudson Heights Owners Association

[see following pages]

**AMENDMENT TO BYLAWS
OF
HUDSON HEIGHTS CONDOMINIUM ASSOCIATION**

The Bylaws of Hudson Heights Condominium Association are hereby amended as follows:

1. All references to Bay Creek Association, Inc. shall be changed to Hudson Heights Condominium. All references to Bay Creek Condominiums shall be changed to Hudson Heights Condominium. All references to Developer shall mean and refer to Declarant, 1309 Hudson Avenue, LLC, as the context may require.

2. Article III, Section 3 is hereby deleted in its entirety.

3. Article IV, Section 2(a) is hereby deleted in its entirety and replaced with the following:

(a) Not later than the termination of the Period of Declarant Control, the unit owners shall elect an executive board of at least three (3) members, at least a majority of whom must be unit owners.

Not later than 60 days after conveyance of twenty-five percent (25%) of the units to unit owners other than Declarant, at least one member and not less than twenty-five percent (25%) of the members of the executive board shall be elected by unit owners other than the Declarant. Not later than 60 days after conveyance of fifty percent (50%) of the units to unit owners other than a Declarant, not less than thirty-three percent (33%) of the members of the executive board shall be elected by unit owners other than the Declarant.

The "Period of Declarant Control" means the time in which the Declarant controls the board of directors. The Period of Declarant Control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the units to unit owners other than a Declarant; or (ii) two years after Declarant has ceased to offer units for sale in the ordinary course of business.

3. Article III, Section 8 is hereby deleted in its entirety and replaced with the following:

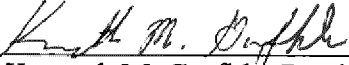
8. Quorum. A quorum is deemed present throughout any meeting of the association if persons entitled to cast twenty percent (20%) of the votes are present in person or by proxy at the beginning of the meeting. Except where the Declaration, Articles of Incorporation or applicable law require a greater percentage, any action may be taken at any meeting of the members of the Association at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes represented at such meeting. If business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of

those present in person or by proxy. Notwithstanding any provision to the contrary in the declaration or the bylaws, the quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

4. The third sentence of Article VII, Section 3 reading "Provided, however . . . contingencies and reserves." is hereby deleted in its entirety.

Officer's Certificate

The foregoing Amendment to Bylaws was duly adopted by the board of directors of the Association on February 14, 2023.



Kenneth M. Gorfkle, President

BAY CREEK ASSOCIATION, INC.

WRITTEN CONSENT OF BOARD OF DIRECTORS

The undersigned, being the sole member of the Board of Directors of Bay Creek Association, Inc., a North Carolina nonprofit corporation (the "Corporation"), hereby resolves as follows:

WHEREAS, the Corporation was formed on September 26, 1986;

WHEREAS, 1309 Hudson Avenue, LLC ("Declarant") is now the owner of all the units in Bay Creek Condominiums and Kenneth M. Gorfkle is the sole member of Declarant;

WHEREAS, the Board of Directors desires to appoint officers of the Corporation;

WHEREAS, the Board of Directors desires to amend the Articles of Incorporation of the Corporation, the Bylaws of the Corporation and the Declaration of Condominium, all in the forms attached hereto (collectively, the "Amendments");

WHEREAS, 1309 Hudson Avenue, LLC as the sole member of the Association has reviewed and approved the Amendments;

NOW, THEREFORE, RESOLVED, that the following person is appointed as officer of the Corporation to serve in the capacity stated in accordance with the articles of incorporation and bylaws of the Corporation: Kenneth M. Gorfkle as President;

FURTHER RESOLVED, that the Amendments previously presented to, and considered by, the Board of Directors are hereby approved and adopted as the case may be;

FURTHER RESOLVED, that Kenneth M. Gorfkle as the incumbent President is authorized and directed to take all steps that are reasonably necessary to effectuate the adoption, execution and filing of the Amendments, including without limitation the execution and filing of the amendment to the articles of incorporation with the North Carolina Secretary of State and the execution and filing of the Amendment to Declaration of Condominium with the Durham County Registry;

FURTHER RESOLVED, that any actions taken by the above-named officer on behalf of the Corporation are hereby accepted, ratified and confirmed; and

FURTHER RESOLVED, that these resolutions may be signed in counterpart fashion, and a complete signed copy will be kept in the books of the Corporation.

EFFECTIVE as of February 14, 2023.


Kenneth M. Gorfkle, Sole Board Member

| Hudson Heights Condominium | | | |
|---------------------------------------|----------------|---------------|---------------------|
| | | | |
| Condominium Association Budget | | | |
| | | | |
| | Monthly | Annual | Monthly/unit |
| INCOME | | | |
| Monthly Assessments | \$15,009 | \$180,112 | \$138.98 |
| | | | |
| EXPENSES | | | |
| Utilities | | | |
| Electricity | \$625 | \$7,500 | \$5.79 |
| Garbage Removal | \$1,136 | \$13,632 | \$10.52 |
| Water billing (\$8/unit) | \$864 | \$10,368 | \$8.00 |
| Stormwater | \$320 | \$3,840 | \$2.96 |
| Insurance | \$3,400 | \$40,800 | \$31.48 |
| | | | |
| Landscaping | | | |
| Landscaping Contract | \$1,800 | \$21,600 | \$16.67 |
| | | | |
| Administrative | | | |
| Management Fee | \$1,296 | \$15,552 | \$12.00 |
| Tax Preparation | \$120 | \$1,440 | \$1.11 |
| Legal Fees | \$100 | \$1,200 | \$0.93 |
| | | | \$0.00 |
| Repairs and Maintenance | | | |
| Fence and Gate Repairs | \$50 | \$600 | \$0.46 |
| Janitorial Contract | \$600 | \$7,200 | \$5.56 |
| General R&M | \$1,000 | \$12,000 | \$9.26 |
| Pressure Washing | \$500 | \$6,000 | \$4.63 |
| Gutter Cleaning | \$950 | \$11,400 | \$8.80 |
| Pest Control | \$105 | \$1,260 | \$0.97 |
| Termite Bond | \$60 | \$720 | \$0.56 |
| | | | |
| Transfer to Reserves | \$2,083 | \$25,000 | \$19.29 |
| | | | |
| TOTAL EXPENSES | \$15,009 | \$180,112 | \$138.98 |
| TOTAL REVENUE | | \$180,112 | \$138.98 |