

PREPARED BY & RETURNED TO:  
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*Exhibit*

BOOK 3869 PAGE 920

BY-LAWS

OF

BEACHWOOD HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is Beachwood Homeowners Association, Inc., herein referred to as the "Association". The principal office of the corporation shall be located in Wake County, North Carolina. Meetings of members and directors may be held at such places within Wake County, North Carolina, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Beachwood Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

Section 2. "Property" shall mean and refer to the hereinafter described real property located in St. Mary's Township, Wake County, North Carolina, and such additions as might be added thereto by Declaration of Annexation or otherwise:

BEING ALL of that certain parcel of land, containing 40.619 acres as shown on that plat entitled "PHASE ONE BEACHWOOD" by Watkins & Associates, P.A., dated September 8, 1986, and revisions thereto, and being also a portion of that parcel described on Exhibit A attached hereto and made a part hereof.

Section 3. "Common Open Space" shall mean that part of the Property conveyed by the Declarant to the Association for the common use and enjoyment of the owners. Common open space shall be maintained for forestry, pasture, agriculture and active or passive recreational uses including swimming pools, tennis courts, athletic fields, bath houses, club houses and similar facilities and associated off-street parking. The common open space shall not include utility lines, utility structures and public roads. As additional land is annexed and plats recorded, the Declarant may dedicate a portion of such annexed lands as part of the common open space. The common open space shall be those areas so designated on recorded plats of the Subdivision. The Association shall be responsible for maintaining the common open space and such facilities as may be constructed thereon.

Section 4. "Lot" shall mean and refer to any improved or unimproved plot of land shown upon any recorded subdivision map of the Property and intended for use as the site of one dwelling, and specifically excluding the common open space and roadways.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and any lessee or tenant of an Owner.

Section 6. "Declarant" shall mean and refer to Eastman Development Companies, Inc., its successors and assigns, if such successors and assigns should acquire any of the Property for purposes of development.

Section 7. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 8. "Dwelling" shall mean and refer to a detached single family residential unit constructed on a lot. No dwelling shall have a finished and heated first floor area, exclusive of basements, steps, porches and garages, of less than 700 square feet in the case of a multi-story dwelling and 1200 square feet in the case of a single story dwelling. The Board shall have the right to waive any violation hereof which does not exceed 10%.

Section 9. "Board of Directors" or "Board" shall mean those persons elected or appointed and acting collectively as the Directors of the Association.

Section 10. "Amenities" shall mean the recreational facilities constructed, erected or installed within the common open space for the use, benefit and enjoyment of all members. The Declarant shall construct a swimming pool, tennis court and bath house within the common open space of the Property.

Section 11. "Subdivision" shall mean and refer to the Property, and all lots, common open space, amenities and other improvements thereon which comprise Beachwood, a single family residential subdivision.

Section 12. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Beachwood recorded in the Office of the Register of Deeds, Wake County, North Carolina, and all amendments thereto.

Section 13. "Articles" shall mean and refer to the Articles of Incorporation for Beachwood Homeowners Association, Inc. recorded in the office of the North Carolina Secretary of State and the Wake County Registry.

ARTICLE III

MEMBERSHIP

Declarant and every person who is a record owner of a fee or undivided fee interest in any lot which is subject by the Declaration to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a lot in the Subdivision. The Association shall have two classes of members as provided in its Declaration and Articles of Incorporation.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of the Association shall be managed by a Board of five (5) directors, who need not be members of the Association.

Section 2. Election. At the first annual meeting the members shall elect two (2) directors for a term of one (1) year, and three (3) directors for a term of two (2) years; and at each annual meeting thereafter the members shall elect directors for a term of two (2) years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association in the capacity of director; however, any director may be reimbursed for his actual expenses incurred in the performance of such duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held annually, without notice, after the annual meeting of members as provided in Article IX, Section 1, hereof. In addition, the Board of Directors may provide, by resolution, the time and place for the holding of additional regular meetings. Should said meetings fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VI

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have the power:

(a) To formulate, adopt, amend and publish rules and regulations governing: (i) the use of the common open space, amenities and streets within the Subdivision; and (ii) the number of guests, if any, that a member may allow to use the common open space and amenities and the charges, if any, for such use.

(b) To suspend the voting rights of any member for any period during which any assessment remains unpaid; and to suspend the use of amenities of any member, or tenant of any member, for a period not to exceed thirty (30) days, for any infraction of the Association's published rules and regulations, it being understood that any such suspension shall not constitute a waiver or discharge of the member's obligation to pay the assessment or obey the Association's rules and regulations.

(c) To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

(d) To employ a manager, an independent contractor, professionals, or such other employees as they deem necessary, and to prescribe their duties and to authorize any manager to endorse checks payable to the Association and to withdraw funds from the Association's account without the signature of any officer of the Association.

(e) To borrow money for the purpose of improving the common open space, amenities and private streets, and in aid thereof, to mortgage such property unless prohibited by law, the Articles or the Declaration; provided, no such loan or mortgage shall be effective unless authorized by two-thirds (2/3s) of the vote of each class of membership.

(f) To dedicate, lease, sell or otherwise transfer all, or part, of the common open space to any public agency, utility or private concern for any purpose and subject to any conditions as the Board might determine; provided, no such transfer shall be effective unless authorized by: (i) two-thirds (2/3s) of the vote of each class of membership; (ii) the Federal Housing Administration and Veterans Administration so long as there is a Class B member; and (iii) the Wake County Zoning Administrator (or the City of Raleigh Planning Department if the Property is then within the City's zoning jurisdiction) so long as the common open space is subject to Wake County Zoning Ordinance 1-1-

37(c)(9), and amendments thereto (or applicable City ordinance).

(g) To exercise all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Articles or the Declaration.

Section 2. Duties. It shall be the duty of the Board of Directors:

(a) To keep a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting, when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote.

(b) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.

(c) To fix the amount of the annual assessment against each lot and to send written notice of each assessment to every owner subject thereto in advance of each annual assessment period.

(d) To foreclose the lien against any lot for which assessments are not paid after the due date or to bring an action at law against the owner personally obligated to pay the same.

(e) To issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificate. Such certificate shall be conclusive evidence of any assessment therein stated to have been paid.

(f) To procure and maintain adequate liability insurance, and to procure adequate hazard insurance on property owned by the Association.

(g) To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

(h) To cause the common open space, the improvements and amenities thereon, to be maintained and protected against foreclosure.

(i) To cause the payment of ad valorem taxes, public assessments levied against the common open space and amenities and all Association common expenses as provided in the Declaration.

ARTICLE VIII

COMMITTEES

Section 1. The Board may appoint an Architectural Committee, as provided in the Declaration, and shall appoint a Nominating Committee as provided in these By-Laws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purposes and duties.

Section 2. It shall be the duty of each committee to receive from members any matter involving Association functions, duties, and activities within its field of responsibility. It shall dispose of such matters as it deems appropriate or refer them to such other committee, director or officer of the Association as is further concerned with the matter presented.

ARTICLE IX

MEETINGS OF MEMBERS

Section 1. Annual Meetings. The annual meeting of the members shall be held on the first day of November of each year, beginning in 1987, at such time and place as is fixed by the Board of Directors. The Directors may, from time to time, change the date and time of the annual meeting.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the entire membership or who are entitled to vote one-fourth (1/4) of the votes of the Class A membership.

Section 3. Notice of Meetings. Except as provided otherwise in the Declaration, the Articles of Incorporation for the Association or these By-Laws, written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at

any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than as announced at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, signed by the member and filed with the Secretary. Every proxy shall be revocable and shall automatically expire upon conveyance by the member of his lot.

#### ARTICLE X

#### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may, from time to time, by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at such time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall



simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors and all meetings of the members; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign all promissory notes on behalf of the Association.

(b) Vice-President. The Vice-President shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; keep proper books of account; cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

#### ARTICLE XI

#### ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the lot against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 6% per annum and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the lot, and interest, costs, and

reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common open space or abandonment of his lot.

ARTICLE XII

BOOKS AND RECORDS

The books, records, papers, Declaration, Articles of Incorporation and these By-Laws of the Association shall at all times, during reasonable business hours, be subject to inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE XIII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words "Beachwood Homeowners Association, Inc." and in its center the words "Corporate Seal".

ARTICLE XIV

AMENDMENTS

Section 1. These By-Laws may be amended at a regular or special meeting of the members, by a vote of a majority of a quorum of the members present in person or by proxy; provided, no amendment shall be made without the prior approval of: (i) the Federal Housing Administration and the Veterans Administration, so long as there is a Class B member; and, (ii) the Wake County Zoning Administrator (or the City of Raleigh Planning Department if the Property is then within the City's zoning jurisdiction) so long as the common open space is subject to the provisions of Wake County Zoning Ordinance 1-1-37(c)(9), and amendments thereto (or applicable City ordinance).

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

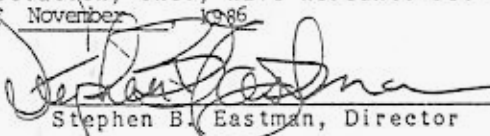
ARTICLE XV

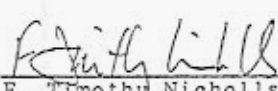
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the initial fiscal year shall begin on the date of

incorporation.

IN WITNESS WHEREOF, we, being all of the directors of  
Beachwood Homeowners Association, Inc., have hereunto set our  
hands this the 14th day of November, 1986

  
\_\_\_\_\_  
Stephen B. Eastman, Director

  
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F. Timothy Nicholls, Director