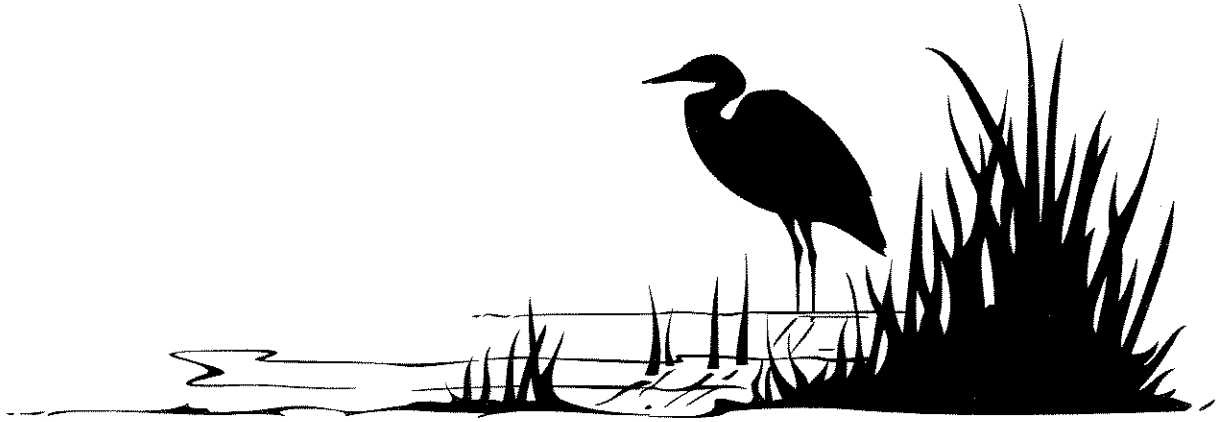


Night Heron
Declaration of Covenants and
Restrictions
& By-Laws



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I. Declaration of Covenants and Restrictions

K.F. 10439966
DECLARATION OF COVENANTS AND RESTRICTIONS

FOR NIGHT HERON SUBDIVISION, KIAWAH ISLAND, SOUTH CAROLINA
AND PROVISIONS FOR THE NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

THIS DECLARATION, made this 22 day of November, 1980, by Kiawah Island Company Limited, and approved and accepted by Night Heron Cottage Owners' Association, Inc.,

W I T N E S S E T H :

WHEREAS, the Company is the owner of the real property described in Article II of this Declaration and is creating thereon a planned development neighborhood community with residential houses known as "Night Heron Subdivision"; and

WHEREAS, the Company desires to provide a vehicle for the preservation of values in said subdivision, and for the maintenance of certain services within said subdivision; and

WHEREAS, the Company is causing to be incorporated under the laws of the State of South Carolina a non-profit corporation, Night Heron Cottage Owners' Association, Inc., for the purpose of exercising the functions aforesaid, which are hereinafter more fully set forth;

NOW, THEREFORE, the Company declares that the real property described in Article II is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject, among others, to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (hereinafter sometimes referred to as "the Covenants") hereinafter set forth.

ARTICLE I

DEFINITIONS

The following words and terms, when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise), shall have the following meanings:

(a) "Association" shall mean and refer to Night Heron Cottage Owners Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

(b) "Company" shall mean and refer to Kiawah Island Company Limited, a corporation duly organized and existing under the laws of the Territory of the British Virgin Islands, its successors and assigns.

(c) "Dwelling Unit" shall mean and refer to any building situated upon a lot within the Properties intended for use and occupancy by a single family.

(d) "Kiawah Island" shall mean and refer to all the lands in Charleston County, South Carolina, which are shown as a part of Kiawah Island on the Company's Master Development Plan as revised from time to time.

(e) "Member" shall mean and refer to all those Property Owners who are Members of the Association as provided in Section 1 of Article III hereof.

(f) "Night Heron Common Properties" shall mean and refer to (1) the mailing receptacle(s) for Night Heron Cottages; and (2) the linen house(s), which may be leased to Kiawah Island Company Limited, its successors and assigns, for a nominal consideration for an initial term not exceeding 99 years, said lease to provide the Company with an option to lease the linen house(s) for a nominal consideration for an additional term not to exceed 99 years to commence upon termination of the initial term, and the Open Spaces upon which the linen house(s) are, or may be, situate as designated on the plat referred to in Exhibit "A" attached hereto.

The Company shall construct one linen house, which may incorporate therein the Night Heron mailing receptacle(s). The Company may construct a second linen house should the Company, in its sole discretion, deem a second linen house desirable. The second linen house may also contain Night Heron mailing receptacle(s).

(g) "Primary Member" shall mean and refer to the sole record owner of a Dwelling Unit, or in those instances where a Dwelling Unit is owned by two or more persons, or by a corporation, or partnership, the "Primary Member" shall mean and refer to the person appointed as the Primary Member by such joint owners, partnerships, and corporations as provided in Article VII, Section Two of these Covenants and in the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., recorded in the R.M.C Office for Charleston County, South Carolina, in Book M 114, page 407.

(h) The "Properties" shall mean and refer to the real property described in Article II hereof.

(i) "Property Owner" shall mean and refer to the record owner, whether one or more persons, firms, associations, corporations, partnerships, or other legal entities, of the fee simple title to any Dwelling Unit but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure; nor shall the term "Property Owner" mean or refer to any lessee or tenant of a Property Owner.

ARTICLE II

PROPERTY

Section 1. Property. The real property which is and shall be held, transferred, sold, conveyed, leased and occupied, subject to these Covenants, is located on Kiawah Island, Charleston County, South Carolina, and is more particularly described in Exhibit A hereto attached and by reference incorporated herein.

Section 2. Mergers. Upon a merger or consolidation of the Association with another association as provided for in the By-Laws of the Association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or unconsolidated association may administer the Covenants and Restrictions established by this Declaration within the Properties, as herein provided.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The Company and every person or entity who is a record owner of a fee simple or undivided fee simple interest in any Dwelling Unit which is subject by the Covenants to assessment by the Association shall be a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association.

Section 2. Voting Rights. Members shall be entitled to one vote for each Dwelling Unit in which they hold the interest required for membership by Section 1 of this Article. When more than one person holds such interest or interests in any Dwelling Unit, all such persons shall be Members and the vote for such Dwelling Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Dwelling Unit. When the Primary Member signs a proxy or purports to vote for his or her co-owners, such vote shall be counted unless one or more of the other co-owners is

present and objects to such vote, or if not present, objects in writing to the Secretary of the Association before the vote is counted. If co-owners disagree as to the vote, the vote which such co-owners may be entitled to cast may not be cast. The vote appurtenant to a single Dwelling Unit must be cast as a single vote and may not be split.

Section 3. Quorum for any Action Authorized. The presence at the meeting of Members, or of proxies, entitled to cast fifty-one (51%) percent of the total vote of the membership shall constitute a quorum. If the required quorum is not forthcoming at a meeting, another meeting may be called upon written notice thereof to all members at least 30 days in advance setting forth the purpose of the meeting.

ARTICLE IV

PROPERTY RIGHTS IN THE NIGHT HERON COMMON PROPERTIES

Section 1. Member's Easements of Enjoyment. Subject to the provisions of these Covenants and the rules and regulations of the Association, every Member shall have a right and easement of enjoyment in and to the Night Heron Common Properties and such easement shall be appurtenant to and shall pass with the title to every Dwelling Unit.

Section 2. Title to Night Heron Common Properties. The Company may retain the legal title to Night Heron Common Properties until such time as, in the opinion of the Company, the Association is able to maintain the same. Night Heron Common Properties may be conveyed to the Association subject to all restrictive covenants of record, and when tendered, title thereto shall be accepted by the Association.

Section 3. Extent of Member's Easements. The right and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Company to dedicate or transfer to any public or private utility, utility easements on any part of the Night Heron Common Properties;
- (b) The right of the Association to grant to the Company easements of ingress and egress and easements for purposes of maintenance of the linen building(s) over Night Heron Common Properties should the linen building(s) be leased to the Company.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Company, for each Dwelling Unit owned by it within the Properties, hereby covenants and each Owner of any Dwelling Unit shall, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these Covenants and to pay to the Association: (a) such sums which shall be payable pursuant to Section 5 hereof and continuing thereafter to defray (i) the cost of maintaining the landscaping of each Dwelling Unit and maintaining the grounds free of weeds, limbs and debris, (ii) the estimated costs of providing pest control within the Dwelling Units, (iii) the estimated costs of providing refuse, garbage, and trash removal, (iv) the estimated costs of maintaining the Night Heron Common Properties, (v) and to defray administrative costs such as record keeping and any managerial fees incurred; and (b) such additional annual or special assessment as shall be determined and set by the Board of Directors of the Association from time to time.

The annual and special assessments, together with such Delinquent Payment Fees thereon and costs of collection therefor as hereinafter provided, shall be a charge and continuing lien on the land and all the improvements thereon against which each such assessment is made. Each such assessment, together with such Delinquent Payment Fees thereon and cost of collection therefor as hereinafter provided, shall also be the

personal obligation of the person who was the owner of such property at the time when the assessment fall due. In the case of co-ownership of a Dwelling Unit, all of such co-owners of the Dwelling Unit shall be jointly and severally liable for the entire amount of any assessments and Delinquent Payment Fees.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to defray the costs to the Association of performing those services set forth in Section 1 hereinabove and for such other matters as authorized by these Covenants.

Section 3. Annual Assessments. The annual assessments shall be increased each year by 5% thereof or by such amount as shall be authorized by a majority vote at the annual meeting of the Board of Directors.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment for any year at a lesser amount, but such action shall not constitute a waiver by the Association of its right to revert to the full assessment for the remaining year or years of the then-current period fixed as provided in the preceding paragraph.

Section 4. Date of Commencement of Annual Assessments; Initial Assessments; Due Dates. The annual assessments provided for herein shall commence on the date a Dwelling Unit is first conveyed from the Company to a Property Owner.

The first annual assessments shall be the yearly sum of \$660.00 as pro-rated for the balance of the fiscal year, and shall be due and payable at the date of closing for the balance of the fiscal year. The annual assessments for subsequent years shall become due and payable on the first day of the fiscal year of the Association and shall be collected in such installments as determined by the Board of Directors.

Section 5. Duties of the Board of Directors. The Board of Directors of the Association shall fix the amount of the assessment against each Dwelling Unit for each assessment period and shall, at that time, prepare a roster of the Properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Property Owner.

Written notice of the assessment shall be sent to every Property Owner subject thereto. Such notice shall include the Delinquent Payment Fee as provided in the By-Laws to be imposed for failure to pay the assessment by the due date.

The Association shall, upon demand at any time, furnish to any Property Owner liable for said assessment a certificate in writing signed by an Officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be prima facie evidence of payment of any assessment therein stated to have been paid.

Section 6. Effect on Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If the assessments are not paid on the date when due then such assessment shall become delinquent and shall (together with a Delinquent Payment Fee as shall be provided in the By-Laws but not to exceed five (5%) percent of the unpaid balance per month from the due date and each month thereafter so long as the assessment or any part thereof remains delinquent, and cost of collection thereof as hereinafter provided) become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made. The personal obligation of the Property Owner at the time of the assessment to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass as a personal obligation to his successors in title unless expressly assumed by them.

If the assessment is not paid within sixty (60) days after the due date, the Association may bring an action at law against the Property Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include Delinquent Payment Fees on the assessment as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages 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 or any other proceeding 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.

ARTICLE VI

INSURANCE

Section 1. Uniform Insurance Policy. The Board of Directors of the Association shall obtain, whenever practicable, a uniform hazard insurance policy covering Dwelling Units and other improvements at a lower expense than the same can be insured through individual policies. Each Property Owner shall be offered the option to insure his Dwelling Unit and improvements under such policy. The uniform insurance policy may contain such provisions naming the Association as an additional insured under such policy as the Association may deem necessary to ensure that any claims payment made pursuant to a claim arising from fire or other casualty to a Dwelling Unit or other improvements shall be utilized to restore promptly the damaged property or improvements to the state of the same prior to the occurrence occasioning such damage. Any casualty loss deductible shall be borne by the Property Owner or Owners suffering the loss.

Section 2. Insurance of Property Mandatory. Each Dwelling Unit and other improvements shall be insured against fire and other hazards to at least its replacement cost. Each Property Owner shall either insure his Dwelling Unit and improvements under the uniform insurance policy procured by the Association, or if such policy is unavailable or should a Property Owner elect not to insure his Dwelling Unit and improvements under such policy, said Property Owner shall insure his property to at least its replacement cost by an individual policy and the Association shall be named as an additional insured under such policy to ensure that any claims payment made pursuant to a claim arising from fire or casualty to a Dwelling Unit or other improvements shall be utilized to restore promptly the damaged property or improvements to the state of the same prior to its damage. Any casualty loss deductible shall be borne by the Property Owner or Owners suffering the loss.

Section 3. Repair, Restoration and Rebuilding. Should any Dwelling Unit, lot or other improvements thereon be damaged or destroyed by fire, other casualty or any other cause or event whatsoever, the Property Owner of the property so damaged or destroyed shall cause it to be promptly repaired, restored or rebuilt to at least as good a condition as existed immediately prior to such damage or destruction. The Dwelling Unit shall be rebuilt or restored according to its original specifications, subject only to the right of the Architectural Review Board established by the Kiawah Island Community Association Covenants and the General Covenants to approve otherwise.

Any insurance claims payment made pursuant to a claim arising from fire or casualty to a Dwelling Unit, lot or other improvement shall be utilized to restore promptly the damaged property to the state of the same prior to the occurrence occasioning such loss or damage. This paragraph may be waived by a majority vote of the Board of Directors of the Association when they deem such action appropriate, provided that such waiver must have the concurrence of a majority of the Board of Directors of the Kiawah Island Community Association, Inc.

Section 4. Association Insurance. The Board of Directors of the Association shall obtain, when available, and maintain in force public liability insurance, workmen's compensation insurance (if required) and such other insurance as the Board of Directors may from time to time determine desirable. Premiums upon insurance policies and that portion of any covered loss not compensated for because of the loss deductible clause of the policy shall be paid by the Association as a Common Expense.

Insurance coverage required by this section may be included, partially or totally, as part of the uniform insurance policy referred to in Section 1 of this Article, provided that in such event, the premium attributable to such coverage shall be treated as a Common Expense.

The Night Heron mail receptacle(s) and the linen building(s) may be insured or the Association may self insure the same as the Board of Directors shall determine. If not insured, any costs of repair or replacement thereof resulting from damage or destruction occasioned by fire or other hazard shall be a Common Expense and shall be borne by all the Members, provided, however, that should the linen building(s) be leased to the Kiawah Island Company Limited, the terms of the lease shall provide that the Company shall be responsible for replacement or repair of the building(s) should they be damaged or destroyed by fire or other hazard.

Proceeds received by the Association from any indemnity paid under a hazard insurance policy shall be held by the Board of Directors. After deduction of all reasonable expenses of the Board in administering such proceeds, the net proceeds shall be used to repair the damages for which claim was made under the policy.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Duration and Amendments. The Covenants and Restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association; the Company or the Property Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns; for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless three-fourths (3/4) of the vote of the annual meetings approves a change in the Covenants and Restrictions. The Covenants may be amended at any time if three-fourths (3/4) of the vote at a duly called meeting of the Association approves the change, provided, however, that no such agreement to change shall be effective unless made and recorded sixty (60) days in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Property Owner and the Company at least thirty (30) days in advance of any action taken. During the period ending one year from the date these Covenants are recorded the Company may amend or add to these Covenants, without the consent of the membership, to clarify or make provision for any item which the Company, in its sole discretion, considers necessary or desirable. The Company shall not, by reason of the power herein reserved, have the right to alter the amount or method of making annual or special assessments.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed postpaid, to the last known address of the person who appears as the Primary Member on the records of the Association at the time of such mailing. In those instances where a Dwelling Unit is owned by two or more persons, or by a corporation, or a partnership, such joint owners, partnerships, and corporations shall annually appoint one person as the Primary Member and notify the Association of such appointment. Notice to the Primary Member of a Dwelling Unit shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address.

Section 3. Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction either to restrain violation or to recover damage, and against the land to enforce any lien created by these Covenants; and failure by the Association or any Property Owner or the Company to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 4. Severability. Should any covenant or restrictions herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions which are hereby declared to be severable and which shall remain in full force and effect.

IN WITNESS WHEREOF, the Kiawah Island Company Limited has caused this instrument to be executed by its duly authorized officers the day and year first above-written.

WITNESSES:

Francis Jones
William S. Swann

KIAWAH ISLAND COMPANY LIMITED

By: Justin C. Gilfillan WAT
Justin C. Gilfillan, HLR
Executive Vice President

By: James D. Frey
James D. Frey,
Authorized Agent

The foregoing Declaration of Covenants and Restrictions is hereby approved and accepted as binding upon the Night Heron Cottage Owners' Association, Inc., its successors and assigns.

IN WITNESS WHEREOF, Night Heron Cottage Owners' Association, Inc., has caused this instrument to be executed this 4th day of December, 1980, by its President and attested by its Secretary, and its corporate seal to be hereto affixed.

WITNESSES:

NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

Francis Jones
William S. Swann

By: Justin C. Gilfillan WAT
Justin C. Gilfillan, HLR
As its President

ATTEST: Leon Murphy
Leon Murphy,
As its Secretary

THE STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY appeared before me Thomas G. Freese
who, on oath, says that (s)he saw the corporate seal of KILNAY ISLAND
COMPANY LIMITED affixed to the foregoing instrument and that (s)he also
saw Justus C. Gilfillan as Executive Vice President and James D. Frey as
Authorized Agent sign and attest the same, and that (s)he with Marianne
Swinson witnessed the execution and delivery thereof, as
the act and deed of the said Corporation.

Thomas G. Freese

SWORN TO before me this 22
day of November, 1980.

Marianne Swinson (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 3-9-89

THE STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY appeared before me Thomas G. Freese
who, on oath, says that (s)he saw the corporate seal of NIGHT HERON
COTTAGE OWNERS' ASSOCIATION, INC. affixed to the foregoing instrument
and that (s)he also saw Justus C. Gilfillan, as President, and Leon
Murphy, as Secretary sign and attest the same, and that (s)he with
Marianne Swinson witnessed the execution and
delivery thereof, as the act and deed of the said Corporation.

Thomas G. Freese

SWORN TO before me this 4th
day of December, 1980.

Marianne Swinson (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 3-9-89

II. By-Laws

BY-LAWS

OF

NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the corporation is Night Heron Cottage Owners' Association, Inc. The principal office of the corporation shall be located at Kiawah Island Company Limited, Kiawah Island, South Carolina 29455, but meetings of Members and Directors may be held at such places within the State of South Carolina, County of Charleston, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

The following words and terms, when used in these By-Laws or any supplemental set of by-laws (unless the context shall clearly indicate otherwise), shall have the following meanings:

- (a) "Association" shall mean and refer to Night Heron Cottage Owners' Association, Inc., a South Carolina non-profit corporation, its successors and assigns.
- (b) "Company" shall mean and refer to Kiawah Island Company Limited, a corporation duly organized and existing under the laws of the Territory of the British Virgin Islands, its successors and assigns.
- (c) "Covenants" shall mean and refer to the Declaration of Covenants and Restrictions applicable to the Properties recorded in the real estate records in the Office of the Register of Mesne Conveyances of Charleston County, South Carolina.
- (d) "Dwelling Unit" shall mean and refer to any building situated upon the Properties intended for use and occupancy by a single family.
- (e) "Kiawah Island" shall mean and refer to all the lands in Charleston County, South Carolina, which are shown as a part of Kiawah Island on the Company's Master Development Plan as revised from time to time.
- (f) "Member" shall mean and refer to all those Property Owners who are Members of the Association as provided in Article III, Section 1 of the Covenants.
- (g) "Primary Member" shall mean and refer to the sole record owner of a Dwelling Unit, or in those instances where a Dwelling Unit is owned by two or more persons, or by a corporation, or partnership, the "Primary Member" shall mean and refer to the person appointed as the Primary Member by such joint owners, partnerships, and corporations as provided in Article XIV, Section One of these By-Laws and in the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc., recorded in the R.M.C. Office for Charleston County, South Carolina, in Book M 114, page 407.
- (h) The "Properties" shall mean and refer to the existing property described in Article II of the Declaration of Covenants and Restrictions.
- (i) "Property Owner" shall mean and refer to the record owner, whether one or more persons, firms, associations, corporations,

partnerships or other legal entities, of the fee simple title to any Dwelling Unit but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure; nor shall the term "Property Owner" mean or refer to any lessee or tenant of a Property Owner.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership in the Association shall be as set forth in Article III, Section 1 of the Covenants.

Section 2. The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessments is imposed against each owner of and becomes a lien upon the property against which such assessments are made as provided by Article V of the Covenants.

Section 3. The membership rights of any person whose interest in the Properties is subject to assessments under Article III, Section 2 hereinabove, whether or not he be personally obligated to pay such assessments, may be suspended by action of the Directors during the period when the assessments remain unpaid; but, upon payment of such assessments, his rights and privileges shall be automatically restored.

Section 4. Quorum. The presence at the meeting of Members, or of proxies, entitled to cast fifty-one percent of the total vote of the Membership shall constitute a quorum for the transaction of business at meetings of the Association. Unless otherwise provided herein, a majority of the votes cast at such meeting shall be the vote required to adopt decisions. Any absent Primary Member who does not execute and return the proxy form sent to him in the registered mailing referred to in Section 5 of this Article shall be deemed to be present for the purposes of determining the presence of a quorum.

Section 5. Voting. Members shall be entitled to one vote for each Dwelling Unit as shall be cast by the Primary Member, or his proxy. The vote required to adopt decisions shall be as set out in Section 4 above. Votes can be cast only at meetings of the Association convened in accordance with the By-Laws. The failure of an absent Primary Member to execute and return the proxy form sent to him in the registered mailing referred to in Section 5 of this Article shall constitute a proxy to and for the majority present and voting. The Primary Member shall be deemed authorized to act for all co-owners in taking any action on behalf of such co-owners unless another of such persons objects, in which case the vote which such Primary Member would otherwise be entitled to cast may not be cast. The vote appurtenant to a single Dwelling Unit must be cast as a single vote and may not be split.

Section 6. Proxies. Any Primary Member may by written proxy designate an agent to cast the vote for his Dwelling Unit. Unless a proxy states otherwise, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. A proxy may be revocable or irrevocable but shall be deemed revocable at will unless it states otherwise. No proxy shall be honored until delivered to the Secretary of the Association. If at least thirty days prior to a duly called meeting a Primary Member is informed by registered mail of (1) the time and place of the meeting, (2) the agenda for the meeting, and (3) such data as is then available relative to issues on which there will be a vote, and a proxy form is included in such mailing, and the Primary Member neither attends the meeting nor returns his executed proxy, then such Primary Member shall be deemed to have given a proxy for all votes appurtenant to the Dwelling Unit he represents to and for the majority present and voting.

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Section 7. Consents. Any action which may be taken by a vote of the Members may also be taken by written consent to such action signed by all Primary Members.

Section 8. Initial Meeting. The initial meeting of the Association shall be held upon call by the Company as soon as the Company deems practicable and convenient. The following matters, and such other business as the Company may deem appropriate, shall be taken up at the initial meeting:

1. adoption of a fiscal year,
2. approval of a budget for the fiscal year,
3. determination of the date for commencement of the Annual Assessment and the date upon which it is due and payable,
4. determination of the date of the first and subsequent annual meetings, and
5. the election of the initial, three-person Board of Directors in accordance with Article V of these By-Laws.

Section 9. Annual Meetings. The annual meeting of the Association shall be held on a date determined by the Association. Any business which is appropriate for action of the Members may be transacted at an annual meeting.

Section 10. Special Meetings. Special meetings of the Association may be called at any time by the President of the Association or by a majority of the Board of Directors and shall be called upon the written request of a majority of the Primary Members. Only such business as is stated in the notice of meeting shall be transacted at a special meeting unless all Primary Members waive notice of any additional business.

Section 11. Notice of Meetings. Written notice of every annual or special meeting of the Association stating the time, date, and place of the meeting and, in the case of a special meeting, the business proposed to be transacted, shall be given to every Primary Member not fewer than ten nor more than thirty days in advance of the meeting; provided, however, that notice may also be given as described in Section 5 of this Article. Notice to the Primary Member shall constitute notice to all co-owners. Failure to give proper notice of a meeting of the Members shall not invalidate any action taken at the meeting unless (1) a Primary Member who was present but was not given proper notice objects at the meeting, in which case the matter objected to shall not be taken up, or (2) a Primary Member who is not present and was not given proper notice objects in writing to the lack of proper notice within thirty days following the meeting, in which case the action objected to shall be void.

Section 12. Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may in writing waive notice of any meeting either before or after the meeting. Attendance at a meeting by a Member whether in person or by proxy, shall be deemed a waiver by the Member of notice of the time, date, and place of the meeting unless the Member objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted unless objection to lack of notice is raised before the business of which proper notice was not given is put to a vote.

Section 13. Place of Meeting. All meetings of the Association shall be held at such convenient place as the Board of Directors may direct.

Section 14. Adjournment. Any meeting of the Association may be adjourned from time to time for periods not exceeding forty-eight hours by vote of Members holding a majority of the vote represented at such meeting, regardless of whether a quorum is present. Any business which could properly be transacted at the original session of a meeting may be transacted at an adjourned session, and no additional notice of adjourned sessions shall be required.

Section 15. Order of Business. The order of business at all meetings of the Association shall be as follows:

1. roll call;
2. proof of proper notice of the meeting or waiver of notice;
3. reading of the minutes of the preceding meeting;
4. report of the Board of Directors;
5. reports of officers;
6. reports of committees;
7. report of Manager;
8. election of Directors (when required);
9. unfinished business; and
10. new business.

Section 16. Minutes of Meeting. The Secretary of the Association shall prepare and keep, or cause to be prepared and kept, accurate minutes of every meeting of the Association. The minutes shall be made available for examination and copying by any Member at any reasonable time.

ARTICLE IV

ASSOCIATION PURPOSES AND POWERS

Section 1. The Association has been organized to provide a vehicle to assure, through assessments, that the Properties known as "Night Heron Subdivision", Kiawah Island, South Carolina, shall be maintained in an attractive, sightly condition, and to provide other certain benefits for its Members as set forth in Article VI of the Covenants and Sections 1 and 2 of Article V of the Covenants.

Section 2. Mergers and Consolidations. Subject to the provisions of the recorded Covenants and Restrictions applicable to the Properties, and to the extent permitted by law, the corporation may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of a majority vote at a duly called meeting of the Association, written notice of which shall be mailed to all Primary Members of the Association at least thirty (30) days in advance and shall set forth the purpose of the meeting.

ARTICLE V

BOARD OF DIRECTORS OF THE ASSOCIATION

Section 1. Form of Administration. The Association shall act by and through its Board of Directors.

Section 2. Authorities and Duties. The Board of Directors shall provide for the following:

1. the contracting with a management agent to provide for the performance of such services as set forth in Article V of the Covenants, and the designation and dismissal of the personnel necessary to accomplish the same;
2. the collection of assessments from the Members;
3. the procurement of a uniform insurance policy on the terms set forth in Article VI of the Covenants and procurement of such insurance for the Association as authorized or directed in the Covenants.
4. the enforcement of the terms of the Covenants, these By-Laws, and any Regulations promulgated pursuant to the By-Laws; and
5. the administration of the Association on behalf of and for the benefit of all Members.

Section 3. Qualification. Only an individual who is a Member or who together with another person or persons is a Member, or who is an officer of a corporation, a general partner of a partnership, an associate of an association, a trustee of a trust, or a managing agent of any other legal entity which is a Member or which together with another person or persons is a Member, may be elected and serve or continue to serve as a Director of the Association; excepting however, that the individuals comprising the initial three person Board of Directors are not required to be Members. The number of Directors provided at any one time by a Member which is an organization or which consists of more than one individual shall not exceed the number of Dwelling Units owned by such Member.

Section 4. Election and Term. The initial Board of Directors shall consist of three people who shall be elected at the initial meeting of the Association and shall serve until the first annual meeting of the Association. At the first annual meeting the Members shall elect five Directors, three for a term of two years (to be elected in one election) and two for a term of one year (to be elected in a second election), and the Board shall thereafter consist of five Directors. At each subsequent annual meeting Directors shall be elected for two-year terms to succeed the Directors whose terms expire at the meeting. A plurality of the votes cast shall be sufficient to elect a Director in any election. A Director may be elected to succeed himself, and a Director shall be deemed to continue in office until his successor has been elected and has assumed office.

Section 5. Removal. A Director may be removed from office with or without cause by the vote of the Members.

Section 6. Vacancies. Any vacancy on the Board of Directors shall be filled by appointment by the majority of the remaining Directors, and the new Director shall serve for the unexpired term of his predecessor.

Section 7. Voting. Each Director shall have one vote on all matters acted upon by the Board of Directors. The affirmative vote of two Directors on the initial Board and of three Directors on subsequent Boards shall be sufficient for any action unless otherwise specified in these By-Laws.

Section 8. Quorum. Three Directors shall constitute a quorum for the transaction of business, provided, that two directors of the initial Board of Directors shall constitute a quorum.

Section 9. Consents. Any action which may be taken by a vote of the Board of Directors may also be taken by written consent to such action signed by all Directors.

Section 10. Annual Meetings. An annual meeting of the Board of Directors shall be held during each fiscal year within thirty days preceding the annual meeting of the Association. Any business which is appropriate for action of the Board of Directors may be transacted at a regular meeting.

Section 11. Regular Meetings. Regular meetings of the Board of Directors shall be held at such times, dates, and places as the Board of Directors may determine from time to time. Any business which is appropriate for action of the Board of Directors may be transacted at a regular meeting.

Section 12. Special Meetings. Special meetings of the Board of Directors may be called from time to time by the President of the Association and shall be called upon the written request of two of the Directors. Only such business as is stated in the notice of meeting shall be transacted at a special meeting unless all Directors waive notice of any additional business.

Section 13. Notice of Meetings. Written notice of every regular or special meeting of the Board of Directors stating the time, date, and place of the meeting, and, in the case of a special meeting, the business proposed to be transacted shall be given to every Director not fewer than three nor more than ten days in advance of the meeting. Failure to give proper notice of a meeting of the Board of Directors shall not invalidate any action taken at the meeting unless (1) a Director who was present but was not given proper notice objects at the meeting, in which case the matter objected to shall not be taken up, or (2) a Director who is not present and was not given proper notice objects in writing to the lack of proper notice within thirty days following the meeting, in which case the action objected to shall be void.

Section 14. Waiver of Notice. Waiver of notice of a meeting of the Board of Directors shall be deemed the equivalent of proper notice. Any Director may in writing waive notice of any meeting of the Board of Directors either before or after the meeting. Attendance at a meeting by a Director shall be deemed a waiver by the Director of notice of the time, date, and place of the meeting unless such Director objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted unless objection to lack of notice is raised before the business of which proper notice was not given is put to a vote.

Section 15. Place of Meeting. All meetings of the Board of Directors shall be held at such convenient place as the Board may select. Meetings may be conducted by telephone if all Directors consent.

Section 16. Minutes of Meetings. The Secretary of the Association shall prepare and keep, or cause to be prepared and kept, accurate minutes of every meeting of the Board of Directors. A copy of the minutes shall be distributed to each Member within thirty days following each meeting, and all minutes shall be made available for examination and copying by any Member at any reasonable time.

Section 17. Compensation. The Directors may receive such compensation as the Association may determine and shall be entitled to reimbursement by the Association for expenses incurred in the conduct of their duties.

ARTICLE VI

OFFICERS OF THE ASSOCIATION

Section 1. Designation. The Association shall have a President, a Vice President, a Secretary, and a Treasurer. The Association may also

have one or more assistants to any of such officers as may be necessary from time to time. The offices of Secretary and Treasurer may be filled by the same individual and the combined office referred to as Secretary-Treasurer. The officers shall have the authority, powers, duties, responsibilities provided by these By-Laws, or, to the extent not so provided, by the Board of Directors.

Section 2. Qualifications. Only Directors may be elected and serve as officers.

Section 3. Election and Term. Officers of the Association shall be elected at each annual meeting of the Board of Directors and at such other times as may be required to fill vacancies in any office. All officers shall serve until their successors have been elected and assumed office unless sooner removed as hereinafter provided. An officer may be re-elected to any number of terms.

Section 4. Removal. Any officer may be removed from office at any time with or without cause by the Board of Directors.

Section 5. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in a corporate president, including but not limited to the power to appoint committees from among the Members from time to time as he may in his discretion deem appropriate to assist in the conduct of the affairs of the Association.

Section 6. Vice President. The Vice President shall take the place and perform the duties of the President whenever the President shall be absent or unable to act. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 7. Secretary. The Secretary shall prepare and keep, or cause to be prepared and kept, the minutes of all meetings of the Members and of the Board of Directors, and shall have charge of such other books and papers as the Board of Directors may direct.

Section 8. Treasurer. The Treasurer shall have custody of and responsibility for Association funds and securities and shall keep the financial records and books of account belonging to the Association. Custody of Association funds and securities and responsibility for maintaining full and accurate accounts of all receipts and disbursements may be delegated to the Manager if the Board of Directors so determines, but in such case the Treasurer shall verify the amounts of Association funds and securities in the custody of the Manager and review and reconcile the accounts maintained by the Manager at such intervals as may be determined by the Board of Directors.

Section 9. Compensation. The officers may receive such compensation as the Association may determine and shall be entitled to reimbursement by the Association for expenses incurred in the conduct of their duties.

ARTICLE VII

MANAGER

Section 1. Employment. Kiawah Island Company Limited or its designee shall be employed by the Association as the Manager of the Association to the end of the Association's first year; provided, however, that Kiawah Island Company Limited or its designee may consent to serve for a shorter time. After such period of time, the Association shall employ a management agent entirely of its own choosing.

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Section 2. Qualification. The Manager may be a natural person or a corporation or other legal entity. No individual who is a Director or an officer of the Association or who resides in the home of a Director or an officer of the Association shall be the Manager.

Section 3. Authority and Duties. The Manager shall provide the services and perform the duties set out in Article V, Section 2, of these By-Laws, and shall provide such other services and perform such other duties (including, but not limited to, those enumerated in Article V, Section 2) as authorized and directed from time to time by the Board of Directors. The Manager shall confer fully and freely with the Board of Directors and shall attend meetings of the Board and of the Association when requested to do so by the Board.

ARTICLE VIII

FINANCES

Section 1. Fiscal Year. The fiscal year of the Association shall be as determined by the Association.

Section 2. Budget. The Board of Directors shall prepare and submit, or cause to be prepared and submitted, to the Members at their annual meeting a proposed budget for the Association for the fiscal year. The proposed budget shall set forth with particularity the anticipated Common Expenses for the fiscal year and the amount of money needed to establish reasonable reserves for the payment of Common Expenses and contingencies.

Section 3. Approval of Budget. The proposed budget, as it may be amended upon motion of any Member, shall be submitted to a vote of the Members and when approved shall become the budget (Budget) of the Association for the fiscal year. The terms of the Budget shall be binding upon the Board of Directors unless and until such terms are amended by action of the Members.

Section 4. Annual Assessments. The funds required by the Budget shall be collected from the Members in annual assessments (Annual Assessments) and the Annual Assessments shall be payable as and when determined by the Board of Directors.

Section 5. Special Assessments. The funds required from time to time to pay any Common Expenses which are not covered by the Budget but which are approved by the Members shall be collected from all the Members by the Board of Directors in such installments (Special Assessments) as the Members shall determine.

Section 6. Individual Assessments. Any payments to the Association which one or more, but fewer than all, of the Members shall be obligated to make pursuant to the terms of the Covenants, or these By-Laws shall be due upon demand and shall be collected by the Board of Directors as individual assessments (Individual Assessments).

Section 7. Collection. Members shall be personally liable for all assessments and shall pay the same promptly when due. The Board of Directors shall take prompt action to collect by suit, foreclosure, or other lawful method any overdue assessment. If any overdue assessment is collected by an attorney or by action at law, the Member owing the same shall be required to pay all reasonable costs of collection, including attorney's fees.

Section 8. Delinquent Payment Fee. An assessment not paid within fifteen days following the date when due shall be subject to a Delinquent Payment Fee of one and one-half (1-1/2%) percent of the unpaid balance per month from the due date and each month thereafter so long as the assessment or any part thereof remains delinquent. The Delinquent Payment Fee shall be added to and collected in the same

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manner as the assessment. The Board of Directors may in its discretion waive all or any portion of a Delinquent Payment Fee imposed pursuant to this paragraph if it affirmatively appears that the failure to pay the assessment when due was caused by circumstances beyond the control of the Member.

Section 9. Accounts. The Board of Directors shall maintain on behalf of the Association a checking account with a state- or federally-chartered bank having an office in the county where the Properties are situated. The Board of Directors may also maintain on behalf of the Association an interest-bearing savings account with a state- or federally-chartered bank, savings and loan association, or building and loan association. If a Manager is employed, said accounts may be maintained in the name of the Manager as agent of the Association. All funds of the Association shall be promptly deposited in one of said accounts, except that the Board of Directors may maintain a petty cash fund of not more than fifty dollars for payment of minor current expenses of the Association. The books and records relating to any account of the Association shall be made available for examination and copying by any Member at any reasonable time.

Section 10. Payments. The Board of Directors shall provide for payment of all debts of the Association from the funds collected from the Association. Expenditures specifically approved in the budget may be paid without further approval unless the Board of Directors shall otherwise determine. All other expenditures which are in excess of fifty dollars shall be reviewed and approved by the President or the Board of Directors before payment is made. All checks and requests for withdrawals drawn upon any account of the Association shall be signed by the President and the Treasurer or by any two officers of the Association designated by the Board of Directors. The Board of Directors may authorize the Manager to draw checks upon the account of the Association. The Board of Directors may also authorize the Manager to make disbursements from the petty cash fund, if any.

Section 10. Bonding. The Board of Directors shall procure a fidelity bond in an amount of not less than ten thousand dollars covering every individual authorized to withdraw funds from any checking or savings account maintained by the Association. The cost of the bond shall be a Common Expense.

ARTICLE IX

COMMON EXPENSES AND MAINTENANCE BY PROPERTY OWNERS

Section 1. Common Expenses. The Manager shall provide for the Members such services as set forth in Article V and Article VI of the Covenants. The costs of providing such services shall be Common Expenses, except that when such expenses result from the failure of a Member to perform the maintenance required by the By-Laws or Regulations or from the willful act, neglect, or abuse of a Member, they shall be charged to and paid by such Member as an Individual Assessment.

Section 2. Maintenance by Property Owners. The Dwelling Units shall be maintained in good condition and repair by their respective owners.

ARTICLE X

INSURANCE

Section 1. Uniform Insurance Policy. The Board of Directors of the Association shall obtain, whenever practicable, a uniform hazard insurance policy covering Dwelling Units and other improvements at a lower expense than the same can be insured through individual policies. Each Property Owner shall be offered the option to insure his Dwelling Unit and improvements under such policy. The uniform insurance policy may contain such provisions naming the Association as an additional insured under such policy as the Association may deem necessary to ensure that any claims payment made pursuant to a claim arising from fire or other casualty to a Dwelling Unit or other improvements shall be utilized to restore promptly the damaged property or improvements to the state of the same prior to the occurrence occasioning such damage. Any casualty loss deductible shall be borne by the Property Owner or Owners suffering the loss.

Section 2. Insurance of Property Mandatory. Each Dwelling Unit and other improvements shall be insured against fire and other hazards to at least its replacement cost. Each Property Owner shall either insure his Dwelling Unit and improvements under the uniform insurance policy procured by the Association, or if such policy is unavailable or should a Property Owner elect not to insure his Dwelling Unit and improvements under such policy, said Property Owner shall insure his property to at least its replacement value by an individual policy and the Association shall be named as an additional insured under such policy to ensure that any claims payment made pursuant to a claim arising from fire or casualty to a Dwelling Unit or other improvements shall be utilized to restore promptly the damaged property or improvements to the state of the same prior to its damage. Any casualty loss deductible shall be borne by the Property Owner or Owners suffering the loss.

Section 3. Repair, Restoration and Rebuilding. Should any Dwelling Unit, lot or other improvements thereon be damaged or destroyed by fire, other casualty or any other cause or event whatsoever, the Property Owner of the property so damaged or destroyed shall cause it to be promptly repaired, restored or rebuilt to at least as good a condition as existed immediately prior to such damage or destruction. The Dwelling Unit shall be rebuilt or restored according to its original specifications, subject only to the right of the Architectural Review Board established by the Kiawah Island Community Association Covenants and the General Covenants to approve otherwise.

Any insurance claims payment made pursuant to a claim arising from fire or casualty to a Dwelling Unit, lot or other improvement shall be utilized to restore promptly the damaged property to the state of the same prior to the occurrence occasioning such loss or damage. This paragraph may be waived by a majority vote of the Board of Directors of the Association when they deem such action appropriate, provided that such waiver must have the concurrence of a majority of the Board of Directors of the Kiawah Island Community Association, Inc.

Section 4. Association Insurance. The Board of Directors of the Association shall obtain when available and maintain in force public liability insurance, workmen's compensation insurance (if required) and such other insurance as the Board of Directors may from time to time determine desirable. Premiums upon insurance policies and that portion of any covered loss not compensated for because of the loss deductible clause of the policy shall be paid by the Association as a Common Expense.

Insurance coverage required by this section may be included, partially or totally, as part of the uniform insurance policy referred to in Section 1 of this Article, provided that in such event, the premium attributable to such coverage shall be treated as a Common Expense.

The Night Heron mail receptacle(s) and the linen building(s) may be insured or the Association may self insure the same as the Board of Directors shall determine. If not insured, any costs of replacement or repair thereof resulting from damage or destruction occasioned by fire or other hazard shall be a Common Expense and shall be borne by all the Members, provided however, that should the linen building(s) be leased to the Kiawah Island Company Limited, the terms of the lease shall provide that the Company shall be responsible for replacement or repair of the building(s) should they be damaged or destroyed by fire or other hazard.

Proceeds received by the Association from any indemnity paid under a hazard insurance policy shall be held by the Board of Directors. After deduction of all reasonable expenses of the Board in administering such proceeds, the net proceeds shall be used to repair the damages for which claim was made under the policy.

ARTICLE XILIABILITY AND INDEMNIFICATION

Section 1. Liability of the Association. A Member shall not be liable for a greater fraction of a debt or liability of the Association than represented by the assessments payable by such Member. All business correspondence of the Association and all contracts executed by the Association shall contain the following statement:

Night Heron Cottage Owners' Association, Inc. is a non-profit Corporation established pursuant to the laws of the State of South Carolina. No member thereof shall be liable for a greater fraction of a debt or liability of the Association than represented by the assessments payable by the Members.

→ Section 2. Liability of Directors and Officers. No Director or officer of the Association shall be liable to any Member for any decision, action, or omission made or performed by such Director or officer in the course of his duties unless such Director or officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Covenants, or these By-Laws.

Section 3. Indemnification of Directors and Officers. The Association shall indemnify and defend each Director and officer of the Association from any liability claimed or imposed against him by reason of the position or decision, action or omission as a Director or an officer of the Association if all of the following conditions are satisfied:

1. such Director or officer is not required to bear such liability by the terms of the Covenants, the laws of South Carolina, or these By-Laws;
2. such Director or officer gives the Association adequate notice of the claim or imposition of liability to permit the Association reasonable opportunity to defend against the same; and
3. such Director or officer cooperates with the Association in defending against the claim.

The expense of indemnifying a Director or an officer shall be a Common Expense and shall be borne by all the Members, including such Director or officer.

ARTICLE XIIATTESTATIONS AND CERTIFICATIONS

→ Section 1. Attestation of Documents. The presence of the signature of the Secretary or an Assistant Secretary of the Association on any contract, conveyance, or other document executed on behalf of the Association by another officer of the Association shall attest:

1. that the officer of the Association executing the document does in fact occupy the official position indicated, that one in such position is duly authorized to execute the document on behalf of the Association, and that the signature of the officer subscribed on the document is genuine; and
2. that the execution of the document on behalf of the Association has been duly authorized.

Section 2. Certification of Documents. When any document relating to the Properties or the Association is certified as authentic by the Secretary or an Assistant Secretary of the Association, a third party without knowledge or reason to know to the contrary may rely on such document as being what it purports to be.

Section 3. Certification of Actions and Facts. When there is executed by the Secretary or an Assistant Secretary a written statement setting forth (i) actions taken by the Association or by the Board of Directors, or (ii) facts relating to the Properties or the Association as determined by the Board of Directors, a third party without knowledge or reason to know to the contrary may rely on such statement as factually true and correct.

ARTICLE XIII

AMENDMENTS

Section 1. These By-Laws may be amended or repealed and new By-Laws adopted at a regular or special meeting of the Members, by a majority of the vote present at a duly called meeting being cast in favor of such amendment or by the Company within two (2) years from the date of recordation of the Covenants, and provided that any matter stated herein to be or which is in fact governed by the Covenants, may not be amended except as provided in the Covenants.

ARTICLE XIV

MISCELLANEOUS

Section 1. Record of Ownership. Any person who acquires title to a Dwelling Unit (unless merely as security for a debt) shall promptly inform the Board of Directors of his identity and the date upon and the manner in which title was acquired. In those instances where a Dwelling Unit is owned by two or more persons, or by a corporation, or a partnership, such joint owners, partnerships or corporations, shall upon acquiring title and annually thereafter appoint one person as the Primary Member and notify the Association of such appointment. The Board of Directors shall maintain a record of the names of all Members and Primary Members and of the dates upon which they acquired title to their Dwelling Units.

Section 2. Notices. Any notices or documents placed in the mail receptacle or affixed to the front door of a Dwelling Unit by or at the direction of the Board of Directors shall be deemed delivered to the Primary Member of the Dwelling Unit unless he has previously specified to the Board of Directors in writing another address for delivery of notices and documents. Notice to the Primary Member shall constitute notice to all co-owners. Any notice or document addressed to the Board of Directors and delivered to any Director by or at the direction of a Member shall be deemed delivered to the Board of Directors.

Section 3. Waiver. No provision of the By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 4. Conflicts. In the event of any conflict between the By-Laws and the Covenants, the Covenants shall control, as appropriate. In the event of a conflict between the By-Laws and the Regulations, the By-Laws shall control.

Section 5. Severability. The provisions of the By-Laws are severable, and the invalidity of one or more provisions shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.

Section 6. Captions. Captions are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of the By-Laws or the intent of any provisions.

Section 7. Gender and Number. All pronouns shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall include the plural, and vice versa, whenever the context requires or permits.

Section 8. Rules of Order. All meetings of the membership and of the Board of Directors shall be conducted in accordance with Roberts Rules of Order Revised.

Section 9. Corporate Seal. The Association shall have a seal in circular form having within its circumference the name of the corporation, the year of its organization and the words "Corporate Seal, South Carolina".

WITNESSES:

✓ NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

Marianne Swinson
Marianne Swinson

By: Justus C. Gilfillan ^{WJK} _{HLR}
Justus C. Gilfillan,
as its President

Attest: Leon Murphy
Leon Murphy,
as its Secretary

Dated: November 24, 1980

THE STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY APPEARED before me Francis V. Swain
who, on oath, says that (s)he saw the corporate seal of NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC. affixed to the foregoing instrument and that (s)he also saw Justus C. Gilfillan as President and Leon Murphy as Secretary sign and attest the same, and that (s)he with Marianne Swinson witnessed the execution and delivery thereof, as the act and deed of the said Corporation.

Francis V. Swain

SWORN TO before me this 24th
day of November, 1980.

Marianne Swinson (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission expires: 3/9/80

III. Lease Agreement

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

LEASE AGREEMENT

THIS AGREEMENT is made as of this 14th day of July, 1981, by and between Night Heron Cottage Owners' Association, Inc., a South Carolina non-profit corporation (herein referred to as the "Association"), and Kiawah Island Company Limited, a corporation duly organized and existing under the laws of the Territory of the British Virgin Islands (herein referred to as the "Company"):

W I T N E S S E T H

WHEREAS, the Association is the owner of that certain property described in Paragraphs 1 and 2 hereof and the Association is desirous of leasing the same to the Company; and

WHEREAS, the DECLARATION OF COVENANTS AND RESTRICTIONS FOR NIGHT HERON SUBDIVISION, KIAWAH ISLAND, SOUTH CAROLINA, AND PROVISIONS FOR THE NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC., as recorded in the R.M.C. Office for Charleston County, South Carolina, in Book F124, Page 366, authorizes leasing of the Premises to Kiawah Island Company Limited,

NOW, THEREFORE, for and in consideration of the terms, conditions and covenants hereinafter expressed, to be kept and performed by the Association and the Company, the Company does hereby hire and take from the Association for the term and upon the conditions, covenants and agreements herein expressed, the Premises (The "Premises" as the term is used in this Lease shall mean and refer to that property described in Paragraph 1 hereof and shall also include that property described in Paragraph 2 hereof should the Company exercise its option rights as set forth herein.)

TO HAVE AND TO HOLD, the said Premises unto the Company, its successors and assigns, for the following term and upon the following conditions, covenants and agreements:

1. Premises. The Premises hereby leased by the Company from the Association shall include that certain parcel of property designated as a linen building site on a certain plat entitled "Plat of Night Heron Subdivision, 419-I", prepared for Kiawah Island Company Limited by Coastal Surveying Company, Inc., by Jerry Lee Richardson, Registered

Surveyor, dated October 12, 1979, and having latest revision dated July 10, 1980 and recorded in Plat Book AQ at Page 105 in the R.M.C. Office for Charleston County, South Carolina. The said property is approximately ten (10') feet by twenty (20') feet in size and is part of the property designated as Open Space bounded by Summer Duck Way and lots 65, 61, 89 and 66 as shown on said plat. The Premises shall also include the structure to be erected thereon by the Company as herein set forth in Paragraph 3.

2. Option. For and in consideration of the sum of One (\$1.00) Dollar being in addition to other considerations of this Lease Agreement, receipt of which is hereby acknowledged, the Association grants to the Company, its successors and assigns, the exclusive right and option to lease that parcel of land designated as a linen building site on the plat referred to in Paragraph 1 hereinabove the same being part of the Open Space situate at the southeastern corner of the intersection of Summer Duck Way and Bulrush Lane and bounded on the south and east by lot 43. Said option shall be exercisable by the Company at any time during the term of this Lease Agreement by giving written notice to the Association and shall be effective upon payment of an additional consideration of Five (\$5.00) Dollars and shall thereafter be a part of the Premises. The Company shall have the right to construct thereon a second building as set forth in Paragraph 3 hereof.

3. Construction and Use. The Company shall have the right to construct on the Premises linen house(s) approximately ten (10') feet by twenty (20') feet in size, said linen house(s) to be constructed by the Company according to design criteria and specifications of the Company, subject only to architectural approvals required by applicable covenants and restrictions recorded in the R.M.C. Office for Charleston County, South Carolina. The Company shall have the right to construct one linen house on each parcel of Open Space as set forth in Paragraph 1 and Paragraph 2 hereof. The Premises shall be used for, inter alia, the storage of linens and other janitorial supplies, and may also be used as a utility building for purposes of storing lawn mowers, ladders and such other equipment as the Company may desire. The building(s) may also contain the Night Heron mailing receptacles.

4. Easements of Ingress and Egress Construction and Maintenance.

The Association does hereby grant, bargain, sell and release unto the Company, its successors and assigns, a non-exclusive commercial easement for purposes of ingress and egress to the Premises from Summer Duck Way and for purposes of constructing and maintaining the linen building(s) as follows, (a) over upon and across that portion of the area designated as Open Space on the said plat referred to in Paragraph 1 hereof, as bounded by Summer Duck Way on the west, lots 65 and 61 on the north, by lot 89 on the east, and by lot 66 on the south, and (b) should the Company exercise its option rights as granted hereinabove in Paragraph 2, the Company shall have an additional easement over, upon and across that Common Area located at the southeastern corner of the intersection of Summer Duck Way and Bulrush Lane and bounded by lot 43 on the south and east as shown on the said plat.

5. Term. The initial term of this Lease Agreement shall be ninety-nine (99) years beginning on February 15, 1981 and ending February 15, 2080. For and in consideration of the sum of One Dollar (\$1.00) being in addition to other consideration of this Lease Agreement, receipt of which is hereby acknowledged, the Association grants to the Company, its successors and assigns, the exclusive right and option to extend the term of this Lease Agreement for an additional term of ninety-nine (99) years beginning on February 15, 2080 and ending February 15, 2179. Such option shall be exercised by the Company by giving written notice to the Association not more than twelve (12) nor less than two (2) months prior to the expiration of the initial term. Such extension term shall be upon the same terms, covenants, and conditions as the initial term, and the option rights granted the Company in Paragraph 2 hereof shall be exercisable by the Company at any time during the extended lease term if not exercised within the initial term.

Nothing herein to the contrary withstanding, the Company shall have the right and option to terminate this Lease Agreement at any time by giving thirty days written notice thereof to the Association. Neither party shall thereafter have any right or obligation under the provisions of this Lease Agreement.

6. Rent. The Company shall pay to the Association the sum of Five Dollars (\$5.00) upon execution of this Lease Agreement as the total rent for the initial ninety-nine (99) year term. Should the Company exercise its option to extend this Lease Agreement for an additional term of ninety-nine (99) years upon the expiration of the initial term, the total rent for such additional ninety-nine (99) year term shall be the sum of Ten (\$10.00) Dollars payable on or before the first day of the extended lease term.

7. Taxes and Assessments. All taxes and assessments levied against the Premises shall be paid by the Association.

8. Utilities. The Company shall contract for and pay directly to the provider thereof all use charges for water, natural gas, electrical power, water and sewage disposal and other utility charges applicable to the Premises.

9. Company's Maintenance and Repair of Premises. The Company shall not allow or commit any waste and shall, at its sole expense, keep and maintain the Premises in good condition and repair. Should the Premises be damaged or destroyed by fire or other hazard, the Company shall, at its sole expense, promptly repair or replace the Premises to the condition thereof prior to such damage or destruction.

10. Indemnification. The Company shall indemnify and hold the Association harmless against any liability, loss, cost or obligation resulting from property damage, personal injury or death arising in any way out of its use of the Premises.

11. Quiet Enjoyment. The Association agrees that the Company, keeping and performing the covenants of this Lease Agreement, shall at all times during the term of this Lease Agreement peaceably and quietly have, hold, and enjoy the Premises.

12. Rights of Successors and Assigns. The Company shall have the right at any time without further consent to assign its interest in this Lease Agreement. The covenants and agreements contained herein shall apply to, inure to the benefit of, and be binding upon the parties, their assigns, legal representatives, or other successors in interest.

IN WITNESS WHEREOF, the parties have caused these Presents to be executed the day and year first above written.

WITNESSES:

Justus C. Gilfillan
Edward H. Green
July 14, 1981

WITNESSES:

Justus C. Gilfillan
Edward H. Green
July 14, 1981

NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

By: *Justus C. Gilfillan*
Justus C. Gilfillan,
As its President

Attest: *Leon Murphy*
Leon Murphy,
As its Secretary

KIAWAH ISLAND COMPANY LIMITED

By: *Justus C. Gilfillan*
Justus C. Gilfillan,
Executive Vice President

By: *Edward H. Green*
Edward H. Green,
Assistant Secretary

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY APPEARED before me David E. Mann who,
on oath, says that (s)he saw the within named Night Heron Cottage
Owners' Association, Inc. by Justus C. Gilfillan, its President, sign
the within Lease Agreement, and Leon Murphy, its Secretary, attest the
same, and the said Corporation, by said Officers, seal said Lease
Agreement, and, as its act and deed, deliver the same, and that (s)he
with Gynthia H. Marshall witnessed the execution
thereof.

Barbara A. Sluy

SWORN TO before me this 14th
day of July, 1981.

Barbara A. Sluy (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 7/12/87

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY APPEARED before me David E. Mann
who, on oath, says that (s)he saw the within named Kiawah Island Company
Limited by Justus C. Gilfillan, its Executive Vice President, and Edward
H. Green, its Assistant Secretary, sign the within Lease Agreement, and
the said Corporation, by said Officers, seal said Lease Agreement, and,
as its act and deed, deliver the same, and that (s)he with
Gynthia H. Marshall witnessed the execution thereof.

Barbara A. Sluy

SWORN TO before me this 14th
day of July, 1981.

Barbara A. Sluy (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 7/12/87

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AMENDMENT OF LEASE AGREEMENT

WHEREAS, a certain Lease Agreement was entered into as of the 14th day of July, 1981, by and between NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC., a South Carolina non-profit corporation (herein referred to as the "Association"), and KIAWAH ISLAND COMPANY LIMITED, a corporation duly organized and existing under the laws of the Territory of the British Virgin Islands (herein referred to as the "Company"); and

WHEREAS, the Association and the Company are desirous of amending the said contract as set forth herein,

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged, the Lease Agreement entered into as of the 14th day of July, 1981 by and between the Association and the Company is amended as follows:

ONE. Paragraph 7 of the Lease Agreement is amended to read as follows:

7. Taxes and Assessments. All taxes and assessments levied against the Premises shall be paid by the Company.

TWO. All terms, conditions, covenants and agreements expressed in said Lease Agreement shall, except as herein explicitly amended, remain in full force and effect and the same are expressly reaffirmed by execution hereof.

ORIGINAL LEASE: H126-245-

DATED: MARCH 1, 1982

WITNESSES:

NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

Dale S. Henslee

By: W. Elliott Wardlaw

As its President

James B. ...

Attest: Nolan Gotcher

As its Secretary

WITNESSES:

KIAWAH ISLAND COMPANY LIMITED

Juan A. ...

By: Leon Murphy

Vice-President/Finance

Stephanie ...

By: Edward H. Green

Assistant Secretary

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

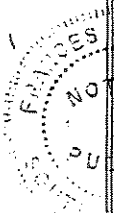
PERSONALLY appeared before me the first witness above, who on oath, says that (s)he saw the within named Night Heron Cottage Owners' Association, Inc. by W. Elliott Wardlaw, its President, sign the within Amendment Of Lease Agreement, and Nolan Gotcher, its Secretary, attest the same, and the said Corporation, by said Officers, seal said Amendment of Lease Agreement, and, as its act and deed, deliver the same, and that (s)he with the other witnessed the execution thereof.

Dale S. Henslee

Dale S. Henslee

SWORN to before me this 1st day of March, 1982

Notary Public for South Carolina
(My Commission Expires: 3/12/85)



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the first witness above, who on oath, says that (s)he saw the within named Kiawah Island Company Limited by C. Leon Murphy, its Vice-President/Finance, and Edward H. Green, its Assistant Secretary, sign the within Amendment Of Lease Agreement, and the said Corporation, by said Officers, seal said Amendment of Lease Agreement, and, as its act and deed, deliver the same, and that (s)he with the other witness witnessed the execution thereof.

Suzanne Angelis
Suzanne Angelis

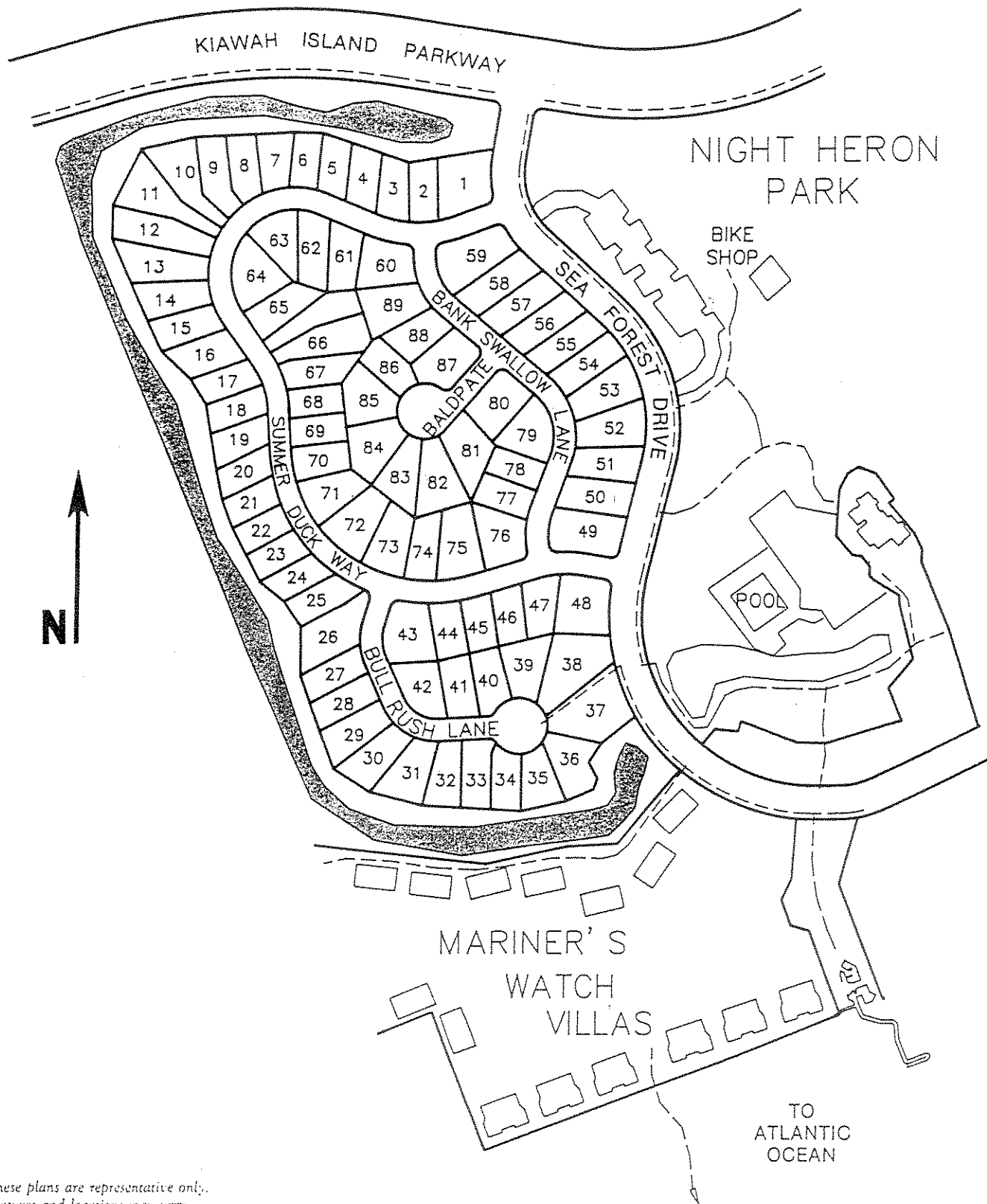
SWORN to before me this 1st
day of March, 1981.

Thomas Jones
Notary Public for South Carolina
My Commission Expires: 3/12/82

H11/h

IV. Map

Site Plan



*These plans are representative only.
Features and locations may vary
from actual construction.*

Night Heron

89 Cottages All 3 Bedrooms Square Footage = 1264

KRAWCHECK & DAVIDSON
ATTORNEYS AT LAW
NINE STATE STREET
CHARLESTON, SOUTH CAROLINA 29401

LEONARD KRAWCHECK
LYDIA PRUITT DAVIDSON
KENNETH C. KRAWCHECK

TELEPHONE
803 577-2577
FAX
803 723-9951
POST OFFICE DRAWER 1018
CHARLESTON, S.C. 29402

April 19, 1995

Ms. Karen Martin
Ravenel Associates
10 Beachwalker Office Park
Kiawah Island, SC 29455

Re: Night Heron Cottage Owners' Association

Dear Karen:

Enclosed for your file please find the Certification of Amendment to By-Laws which has been recorded in the Charleston County RMC Office in Book H-253, Page 339.

Please do not hesitate to call should you have any questions regarding this matter.

With best wishes, I remain

Very truly yours,


Lydia Pruitt Davidson

LPD/mh
Enc.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

CERTIFICATION OF AMENDMENT
OF BY-LAWS

THIS IS CERTIFICATION that the By-Laws of NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC., of record in the RMC Office for Charleston County In Book F-124, Page 366, have been amended in accordance with and pursuant to the provisions for amending the By-Laws in the following particulars, to wit:

1. ARTICLE V, Section 4 shall be amended to read as follows:

Election and Term. The Board shall consist of five (5) Directors. The terms of the Directors shall be for terms of one year(s). At the election following the adoption of this Amendment to the By-Laws, all five Directors shall be elected for a term of one year(s) so that there will be no staggered terms. A plurality of the votes cast shall be sufficient to elect a Director in any election. A Director may be elected to succeed himself and a Director shall be deemed to continue in office until his successor has been elected and has assumed office.

This Amendment is intended to comply with South Carolina Code Section 33-8-106.

WITNESS the hand and seal of the Secretary of Night Heron Cottage Owners' Association, Inc. this 6 day of March, 1995.

WITNESSES:

NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

Kan B. Martin
Julie A. Fullwood

BY: Virgil Sumner
Its: J. Proctor

DK 14 253PG340

Ravenel Associates

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me, the undersigned witness, and made oath that (s)he saw the within named, NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC., by David Sum its President, sign, seal and as its act and deed, deliver the within in written instrument, and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

Kenn R. Martin

SWORN to before me this 6th day of March 1995.

Shirley G. Watts
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 12.26.96



TURNOVER DOCUMENTS TO MAX HILL COMPANY, INC.
NIGHT HERON HOMEOWNERS ASSOCIATION
FEBRUARY 6, 1985

1. Master Deed
2. Lease Agreement for Linen Building
3. Amendment of Lease Agreement for Linen Building

Acknowledged By:

 _____
Name Date

cc: Board of Directors
Night Heron Homeowners Association, Inc.

NIGHT HERON COTTAGES



These comfortable cottages offer the perfect setting in a quiet wooded area with convenience to all of East Beach Village. Twenty-one acre Night Heron Park and its pool are just across the street and the beach is only a short walk away. The 3 bedroom, 2 bath cottages are situated on individual lots with fee simple ownership and feature a versatile floorplan suitable for permanent or second home living.

Design

- Cottages offer a screened porch
- Ceiling fan on some screened porches, others prewired for ceiling fan
- Entry deck and rear deck accessible through master bedroom or screened porch
- Sliding glass doors opening onto deck and screened porch
- Insulated floor, walls and ceiling
- All-electric, energy efficient
- Exterior shower
- Central heating and air conditioning via heat pump
- Outside storage area under building
- Owner's closet

Bedrooms

- Completely carpeted
- Sliding door access to deck from master bedroom

Kitchen

- Dishwasher, disposal, electric range/oven, refrigerator, stacked washer and dryer
- Double stainless steel sink
- Sheet vinyl floors

Baths

- Ceramic tile shower enclosures
- Porcelain on cast iron tub with shower
- Ceramic tile floors

Living-Dining Areas

- Completely carpeted
- Wet bar
- Fireplace
- Tray ceilings, some with ceiling fans, others prewired for ceiling fan

KRAWCHECK & DAVIDSON
ATTORNEYS AT LAW
NINE STATE STREET
CHARLESTON, SOUTH CAROLINA 29401

LEONARD KRAWCHECK
LYDIA PRUITT DAVIDSON
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10 Beachwalker Office Park
Kiawah Island, SC 29455

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With best wishes, I remain

Very truly yours,


Lydia Pruitt Davidson

LPD/mh
Enc.

STATE OF SOUTH CAROLINA)	
)	CERTIFICATION OF AMENDMENT
COUNTY OF CHARLESTON)	OF BY-LAWS

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This Amendment is intended to comply with South Carolina Code Section 33-8-106.

WITNESS the hand and seal of the Secretary of Night Heron Cottage Owners' Association, Inc. this 6 day of March, 1995.

WITNESSES:

NIGHT HERON COTTAGE OWNERS' ASSOCIATION, INC.

Kan B. Martin
Julie A. Fullwood

BY: Vigil Sumner
 Its: President

RETURN TO:
KRAWCHECK & DAVIDSON
9 STATE ST.
CHASN., S.C. 29401

Ravenel Associates

BN 11 25576341

10-00
A

FILED

H253-339 /

95 MAR 10 PM 2:24

CHARLIE D. LYDRAND
REGISTER
CHARLESTON COUNTY SC

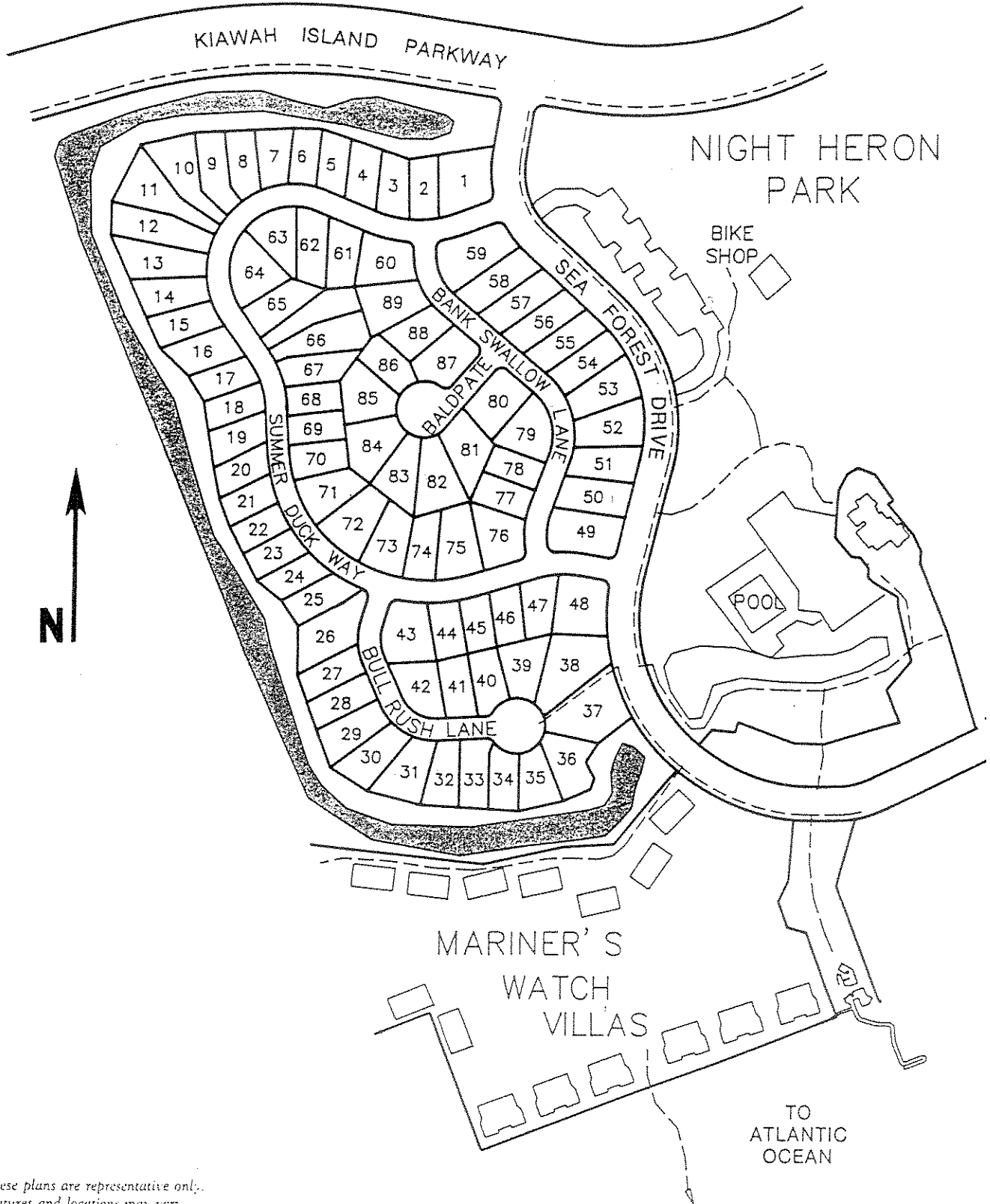
[Handwritten initials]

Ravenel Associates, Inc.

Real Estate Sales & Marketing / Resort Rentals / Property Management Services

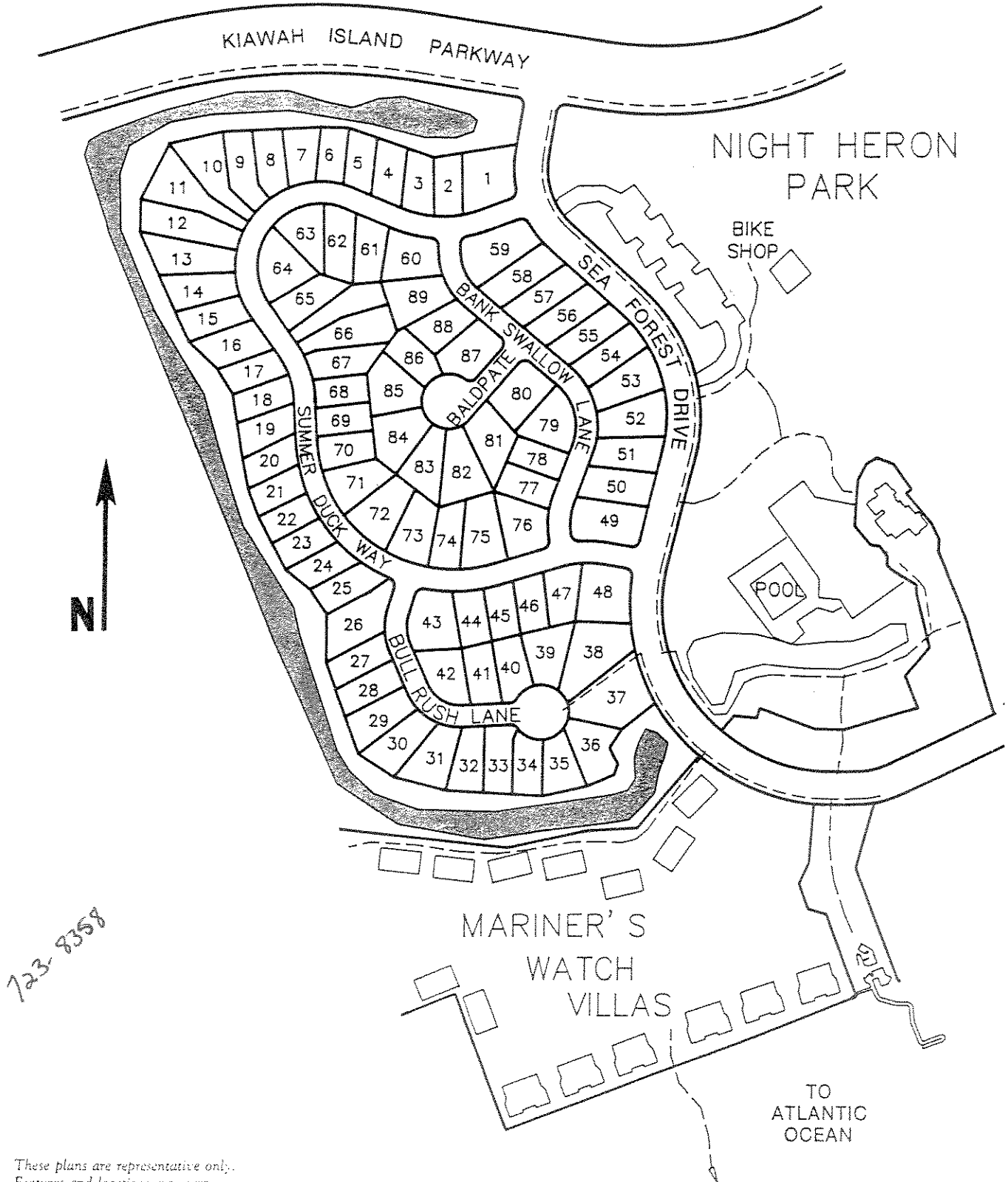
Ten Beachwalker Office Park Kiawah Island, South Carolina 29455 803 768-9480 / 768-9835 Fax 803 768-5047

Site Plan



*These plans are representative only.
Features and locations may vary
from actual construction.*

Site Plan



723-8358

*These plans are representative only.
Features and locations may vary
from actual construction.*