

ARTICLES OF INCORPORATION
OF
HEATHERWOOD TOWNHOME ASSOCIATION

In compliance with the requirements of the laws of the State of North Carolina, the undersigned, who is a resident of Wake County, North Carolina, and is of full age, has signed and acknowledged these Articles of Incorporation for the purpose of forming a non-profit corporation and does hereby certify:

410002
DATE OF FILING: 11/10/54
FILED
LEAS OFFICE
SECRETARY OF STATE
NORTH CAROLINA

ARTICLE I

NAME

The name of the corporation is HEATHERWOOD TOWNHOME ASSOCIATION, hereinafter called the "Association".

ARTICLE II

DURATION

The Association shall exist perpetually.

ARTICLE III

REGISTERED OFFICE AND AGENT

The principal and initial registered office of the Association is located at 1157-D Executive Circle, Cary, Wake County, North Carolina 27511, and James M. Nicholson is the initial registered agent of the Association at that address.

ARTICLE IV

PURPOSE OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for beautification, maintenance, preservation, and architectural control of the exterior of the townhomes, the residence lots, limited common area and the common area, including the maintenance of private streets, within those certain tracts of property located within Heatherwood Townhomes, Shepherd's Vineyard Subdivision, Apex, North Carolina, and more particularly described as:

(a) SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

(b) Such additional lands within the general plan of Heatherwood Townhomes or Shepherd's Vineyard Subdivision heretofore submitted to the Town of Apex as may be annexed by Nicholson Homes, Inc., a North Carolina corporation, its successors and assigns (hereinafter known as the "Declarant"), without the consent of members within five (5) years after the date of this instrument.

(c) Such property as may be annexed at any time with the express consent of two-thirds (2/3) of the votes entitled to be cast by the Class A members and two-thirds (2/3) of the votes entitled to be cast by the Class B members;

and to promote the health, safety, and welfare of the residents within the above-described property and any additions thereto that hereafter may be brought within the jurisdiction of this Association for this purpose.

ARTICLE V

POWERS OF THE ASSOCIATION

The Association shall have the following general powers and any others impliedly arising therefrom, to be exercised in the manner provided and in conformity with applicable law, the Declaration hereinafter referred to, the Bylaws of the Association, and these Articles:

(a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, herein called the "Declaration", applicable to the property, and recorded or to be recorded in the Office of the Register of Deeds of Wake County, North Carolina, and as the same may be amended from time to time as herein provided, said Declaration being specifically incorporated herein by reference as if fully herein set out;

(b) To fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including, but specifically not limited to, licenses, taxes, and governmental charges levied or imposed against the property of the Association;

(c) To acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association, subject always to the provisions and requirements of the Declaration;

(d) To borrow money, mortgage, pledge, deed in trust, or hypothecate its real or personal property as security for money borrowed or debts incurred, subject

always to the provisions and limitations of the Declaration;

(e) To participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and common area subject always to the provisions and limitations set forth in the Declaration;

(f) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Act of the State of North Carolina (Chapter 55A, North Carolina General Statutes) by law may now or hereafter exercise.

ARTICLE VI

MEMBERSHIP

The Declarant, for so long as it shall be an Owner, and every person who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessments by the Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of an obligation, shall be a member of the Association. Ownership of such interest shall be the sole, qualification for membership (other than Declarant); no owner shall have more than one membership and there shall be only one vote per lot. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. The Board of Directors may make reasonable rules relating to the proof of ownership of a lot in this subdivision.

ARTICLE VII

VOTING RIGHTS

Section 1. Classes of Membership. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all owners as defined in Article VI with the exception of the Declarant. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article VI. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as the owners thereof determine, but in no event shall more than one vote be cast with respect to any lot, and no fractional vote may be cast with respect to any lot.

(b) Class B. The Class B member shall be the Declarant, and it shall be

entitled to three (3) votes for each lot in which it holds a fee or undivided fee interest; provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(1) When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership; provided, that the Class B membership shall be reinstated with all rights, privileges, and responsibilities, if, after conversion of the Class B membership to Class A membership as herein provided, additional lands are annexed to the property by the Declarant in the manner provided in Article IV, Subparagraph (b) hereof; or

(2) on January 1, 1992.

Section 2. Suspension of Voting Rights. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and for any period during which any assessment against the lot of a member remains unpaid.

ARTICLE VIII

BOARD OF DIRECTORS

Section 1. Number; Initial Board. The affairs of the Association shall be managed by a Board of not fewer than three (3) nor more than fifteen (15) Directors, who need not be members of the Association. The number of Directors required by the Bylaws of the Association may be changed by amendment thereof. The initial Board shall consist of three (3) Directors and the names and addresses of the persons who are to act in the capacity of and constitute the initial Board of Directors until the selection and qualification of their successors are:

<u>Name</u>	<u>Address</u>
James M. Nicholson	5200 Amsterdam Place, Raleigh, N. C. 27606
Shirley Sodano	102 Whispering Pines, Cary, N. C. 27511
David R. Beller	1002 Rock Drive, Raleigh, N. C. 27610

Section 2. Election; Term. At or within ten (10) days after the first annual meeting, the members shall elect the number of Directors required by the Bylaws. The term of Directors thereafter elected shall be as provided in the Bylaws. All directors shall serve until their successors have been duly elected and qualified.

Section 3. The method of election of Directors after the first election held pursuant to Section 2 shall be as provided in the Bylaws.

ARTICLE IX

MERGERS AND CONSOLIDATIONS

To the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same or similar purposes; provided, no merger or consolidation may be effectuated unless two-thirds (2/3) of all the votes entitled to be cast by the Class A membership and two-thirds (2/3) of all the votes entitled to be cast by the Class B membership are cast in favor of merger or consolidation at an election held for such purpose.

ARTICLE X

DISSOLUTION OR INSOLVENCY

Section 1. Voluntary Dissolution. The Association may be dissolved with the assent given in writing and signed by members having not less than two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any.

Section 2. Election of Successor. Upon dissolution or insolvency of the Association, the members may elect to:

(a) form a non-profit corporation and transfer and assign to such corporation the property of the Association for beautification, maintenance, and preservation of lots, yards, limited common areas and common areas within Heatherwood Townhomes with power to assess the owners for such purposes; or

(b) transfer, assign, and convey the property of the Association to any non-profit corporation, association, trust, or other organization which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the common area was required to be devoted by the Association.

Section 3. Transfer of Assets. The Association shall have no capital stock, and in the event of dissolution, no member, Director, or officer of the Association, and no private individual, shall be entitled to share in the distribution of the assets of the Association. If any assets shall remain after satisfaction of its just debts, the Association shall grant, convey, and assign such assets to any entity or entities that have accepted and undertaken the care and management of the common area or portions thereof. In the event that more than one entity has undertaken such care and management, the Association may distribute the assets among such entities in a manner which the Association, in its discretion, deems fair and equitable.

ARTICLE XI

AMENDMENTS

Section 1. Amendment by Membership. Except as herein provided, any amendment of these Articles shall require the assent of members or proxies entitled to cast seventy-five percent (75%) of the entire vote of the membership.

Section 2. No amendment made pursuant to this Section shall be effective until duly recorded in the Secretary of State's Office and the Office of the Register of Deeds of Wake County.

ARTICLE XII

FHA/VA APPROVAL

Notwithstanding any provision in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of Heatherwood Townhomes for Federal Housing Administration or Veterans Administration approval (but not otherwise), the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Areas; exchange of Area for other portions of the properties, and amendment of the Declaration of Covenants, Conditions and Restrictions.

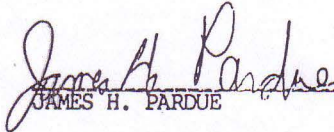
ARTICLE XIII

INCORPORATOR

The name and address of the incorporator is as follows:

James H. Pardue 113 Edinburgh South, Suite 102
Cary, North Carolina 27511

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of North Carolina, the undersigned, as incorporator, has executed these Articles of Incorporation, this the 23rd day of July, 1987.



JAMES H. PARDUE

NORTH CAROLINA - WAKE COUNTY

I, ARLENE F. LIVENGOOD, a Notary Public, do hereby certify that JAMES H. PARDUE personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official stamp or seal this the 23rd day of July, 1987.

My commission expires:

ARLENE F LIVENGOOD
NOTARY PUBLIC
WAKE COUNTY, N. C.
My Commission Expires 9-30-87

Arline F. Livengood
Notary Public

(B:A606)

EXHIBIT A

BEING all of Heatherwood,
a Townhome Development,
Shepherd's Vineyard Subdivision
As shown on map recorded in
Book of Maps 1987, Page 1037
Wake County Registry.