

EXHIBIT 5

OF  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE  
BLUE HERON PINES HOMEOWNER'S ASSOCIATION, INC.

By-Laws  
of  
Blue Heron Pines Homeowner's Association, Inc.

DB5839P085

**BY-LAWS**  
**OF**  
**BLUE HERON PINES HOMEOWNER'S ASSOCIATION, INC.**  
**TABLE OF CONTENTS**  
Blue Heron Pines Homeowner's ASSOCIATION BY-LAWS

<b>ARTICLE I - NATURE OF BY-LAWS; DEFINITIONS; SEAL; PRINCIPAL OFFICE</b>	<b>1</b>
Section 1. Nature of By-Laws	1
Section 2. Definitions	1
Section 3. Seal	1
Section 4. Principal Office	1
<b>ARTICLE II - MEMBERSHIP AND VOTING RIGHTS</b>	<b>1</b>
Section 1. Membership	1
Section 2. Change of Membership	2
Section 3. Voting Right	2
Section 4. Interest in the Common Property	2
Section 5. Suspension of Rights	3
Section 6. Proxies	3
<b>ARTICLE III - MEETINGS OF MEMBERS</b>	<b>3</b>
Section 1. Place of Meetings	3
Section 2. Notice Requirements for Open Meetings	4
Section 3. Annual Meetings	5
Section 4. Special Meetings	5
Section 5. Notice of Meeting	5
Section 6. Quorum	5
Section 7. Organization	6
Section 8. Voting	6
Section 9. Judges	6
Section 10. A Member in Good Standing	6
Section 11. Conduct of the Meeting	7
Section 12. Ballot by Mail	7

DB5839P086

<b>ARTICLE IV - BOARD OF DIRECTORS</b>	<b>7</b>
Section 1. Express and Implied Powers and Duties	7
Section 2. Number and Control of the Homeowner's Association	8
Section 3. Election and Term of Office	9
Section 4. Developer's Protective Provisions	10
Section 5. Removal of Members of the Board	11
Section 6. Vacancies	11
Section 7. Meeting of the Board; Notices; Waiver of Notice	12
Section 8. Quorum and Adjourned Meetings	12
Section 9. Consent in Lieu of Meeting and Vote	12
<b>ARTICLE V - POWERS AND DUTIES OF BOARD OF DIRECTORS</b>	<b>13</b>
Section 1. General Powers and Privileges	13
Section 2. Duties and Responsibilities	15
<b>ARTUCKE VI - FISCAL MANAGEMENT</b>	<b>16</b>
Section 1. Common Expense Assessments	16
Section 2. Determination of Common Expenses	16
Section 3. Optional Services	16
Section 4. Disbursements	16
Section 5. Depositories	16
Section 6. Accounts	16
Section 7. Reserves	17
Section 8. Exemption from Assessments for Capital Improvements	17
Section 9. Notice	18
Section 10. Acceleration of Assessment Installment Upon Default	18
Section 11. Interest and Counsel Fees	18
Section 12. Power of Attorney to Institutional Lender	18
Section 13. Annual Audit	19
Section 14. Examination of Books	20
Section 15. Fidelity Bonds	20
Section 16. Exempt Property	20
<b>ARTICLE VII - OFFICERS</b>	<b>21</b>
Section 1. Designation	21
Section 2. Election of Officers	21

ii  
DB5839P087

Section 3. Removal of Officers	21
Section 4. President	21
Section 5. Vice-President	21
Section 6. Secretary	21
Section 7. Treasurer	21
Section 8. Other Duties and Powers	22
<b>ARTICLE VIII - COMPENSATION, INDEMNIFICATION AND EXCULPABILITY OF OFFICERS, DIRECTORS AND COMMITTEE MEMBERS</b>	<b>22</b>
Section 1. Compensation	22
Section 2. Indemnification	22
Section 3. Exculpability	22
<b>ARTICLE IX - COMMITTEES</b>	<b>23</b>
Section 1. Architectural Design Review Committee (ADRC)	23
Section 2. Other Committees	23
<b>ARTICLE X - FISCAL YEAR</b>	<b>24</b>
<b>ARTICLE XI - ENFORCEMENT</b>	<b>24</b>
Section 1. Enforcement Powers	24
Section 2. Fines	24
<b>ARTICLE XII - ARBITRATION</b>	<b>24</b>
<b>ARTICLE XIII - MISCELLANEOUS</b>	<b>25</b>
Section 1. Examination of Books	25
Section 2. Notices	25
Section 3. Invalidity	25
Section 4. Waiver	25
<b>ARTICLE XIV - AMENDMENTS</b>	<b>25</b>
<b>ARTICLE XV - CONFLICT</b>	<b>26</b>

DB5839P088

**Exhibits:**

- 1- Legal (Metes and Bounds) Description and Survey of Entire Tract
- 2- Legal (Metes and Bounds) Description of the Subject Property, Phase 2E
- 3- Survey of the Subject Property, Phase IIE
- 4- Certificate of Incorporation of Blue Heron Pines Homeowner's Association, Inc.
- 5- By-laws of Blue Heron Pines Homeowner's Association, Inc.
- 6- Blue Heron Pines Architectural Guidelines
- 7- Freshwater Wetlands Maps and Legal (Metes and Bounds) Description

vi

DB5839P089

**BY-LAWS**  
**OF**  
**BLUE HERON PINES HOMEOWNER'S ASSOCIATION, INC.**

**ARTICLE I - NATURE OF BY-LAWS; DEFINITIONS; SEAL; PRINCIPAL OFFICE**

Section 1. **Nature of By-Laws.** These By-laws are intended to govern the administration of Blue Heron Pines Homeowner's Association, Inc., ("Association" or "Homeowner's Association"), a non-profit corporation organized under Title 15A of the Statutes of New Jersey, and to provide for the management, administration, utilization and maintenance of the property described in the Declaration of Covenants, Conditions and Restrictions for Blue Heron Pines Homeowner's Association, Inc. (the "Declaration"). Subject to the Declaration, the Homeowner's Association may do all that it is legally entitled to do under the laws applicable to its form of organization. The Homeowner's Association shall discharge its powers in a manner that protects and furthers the health, safety and general welfare of the residents of Blue Heron Pines. The Homeowner's Association shall provide a fair and efficient procedure for the resolution of disputes between individual Unit Owners and the Association, and between different Unit Owners, that shall be readily available as an alternative to litigation.

Section 2. **Definitions.** For purposes of these By-Laws, all definitions set forth in the Declaration are incorporated herein and made a part hereof, unless the context clearly indicates otherwise.

Section 3. **Seal.** The Homeowner's Association shall have a seal in a circular form having within its circumference the words "Blue Heron Pines Homeowner's Association, Inc."

Section 4. **Principal Office.** The principal office of the Association shall be at c/o Ole Hansen & Sons, Inc., 22 N. Franklin Avenue, Pleasantville, NJ 08232 until such time as, by action of the Board of Directors, the principal office shall be transferred.

**ARTICLE II: MEMBERSHIP AND VOTING RIGHTS**

Section 1. **Membership.** Membership in the Association shall be comprised of all Unit Owners including any Builder or Developer; provided however, that any Person who holds title to or interest in a Unit merely as security for the performance of an obligation shall not be a Member of the Association. Further, despite anything to the contrary herein,

1

DB5839P090

the Developer has one Membership in the Association for each Unit, completed or planned, which has not been conveyed to an individual purchaser or which is not owned by any Builder.

In addition to the foregoing, a separate class known as Associate Members shall refer to an occupant of the Unit, other than the Unit Owner, residing therein pursuant to an occupancy agreement or lease. An Associate Member shall have no voting rights in the Association. An Associate Member's rights shall be limited to the use and enjoyment of Homeowner's Common Property subject to the provisions of these By-Laws, any Rules and Regulations promulgated by the Board and the Declaration.

**Section 2. Change of Membership.** Change of Membership shall be accomplished by recording in the Atlantic County Clerk's Office a deed or other instrument establishing a record title to a Unit, and by delivery to the Secretary of the Homeowner's Association of a certified copy of such instrument. The Membership of the prior Unit Owner shall be thereby terminated.

**Section 3. Voting Rights.** Each Member of the Homeowner's Association shall have a vote in the affairs of the Homeowner's Association. Except as otherwise provided herein there shall be a total of votes in the Association equal to the number of Units, completed and planned, within the Entire Tract.

Each Member shall have one (1) vote for each Unit owned by such Member. Each Builder shall have one (1) vote for each Unit owned by it and (including each Single-Family Home constructed by the Builder or which the Builder is entitled to construct or sell a Lot therefor). The Developer shall have the remaining number of votes equal to the difference between the total votes in the Association and the number of votes held by the Builders and the Members other than the Developer and Builders.

When more than one Person holds title to a Unit, the vote for such Unit shall be exercised as the Co-Owners among themselves determine. When one or more Co-Owners 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, submits a proxy or objects in a writing delivered to the Secretary of the Homeowner's Association before the vote is counted. If Co-Owners disagree as to the vote, the vote shall be split equally among the co-Owners.

**Section 4. Interest in the Common Property.** Each Unit Owner, Lot Owner, Developer and Builder shall have a Membership interest in the Homeowner's Association and an ownership interest in and to the Homeowner's Common Property equal to and in proportion with the number of votes which he, she or it holds pursuant to Section 3 of this Article. Such interest shall be appurtenant to and indivisible from ownership of the Lot, Unit, or in Developer's case only, from ownership of any Lots or Unsubdivided Land for proposed Units. Each Unit Owner who is entitled to Membership in the Homeowner's



Association pursuant to these By-Laws shall be privileged to use and enjoy the Homeowner's Common Property subject to the Declaration, these By-Laws and the right of the Homeowner's Association to promulgate Rules and Regulations governing such use and enjoyment, and subject further to the provisions of Section 5 of this Article.

**Section 5. Suspension of Rights.** The Membership rights of any Member other than the Developer and any Builder (including, but not limited to the right to vote) may be suspended by action of the Board during the period when such Member's assessments remain unpaid; but upon payment of such assessments, if by cash, money order, or certified or collected funds, such rights and privileges shall be automatically restored; provided that, Section 8 of Article III herein shall govern the restoration of voting rights. If the Board has adopted and published Rules and Regulations governing the use of the Homeowner's Common Property and the personal conduct of Persons thereon, the Board may, in its discretion, suspend the rights and privileges of any such Person for violation of any such Rules and Regulations for a period not to exceed thirty (30) days for any single violation, but if the violation is of a continuing nature, such rights and privileges may be suspended indefinitely until such time as the violation is abated. No such action shall be taken by the Board until the Unit Owner is afforded an opportunity for a hearing consistent with the principles of due process of law.

**Section 6. Proxies.** Proxy ballots shall be permitted with respect to all elections of Directors and all amendments to the Certificate of Incorporation, the Declaration, these By-Laws, or any other matter to come before a meeting of the Membership of the Homeowner's Association. All proxies shall be in writing, signed by the individual Member (or in the case of joint owners, by any one of them), or by his, her or their duly authorized representative(s), and delivered to the Secretary of the Homeowner's Association, or such other person as the President may designate, prior to the commencement of the meeting at which ballots are to be cast. Proxies may be revoked at any time prior to the opening of the polls and no proxy shall be voted on after eleven (11) months from the date of its execution unless the proxy provides for a longer period which, in no event can exceed three (3) years from the date of its execution. All proxies shall be substantially in the form prescribed by the Board, and if not in such form, shall be deemed invalid which determination shall be made in the sole and absolute discretion of the Board.

#### ARTICLE III: MEETINGS OF MEMBERS

**Section 1. Place of Meetings.** All meetings of the Members of the Homeowner's Association shall be held at its principal office or at such other place convenient to the Members as may be designated by the Board.

(a) **Open Meetings.** All meetings of the Association's Executive Board, except conference of working sessions at which no binding votes are to be taken, shall be open to attendance by all unit owners.

DB5839P092



(b) Restriction on Open Meetings. Despite (a) above, the Association's Executive Board may exclude or restrict attendance at those meetings or portions of meetings dealing with the following:

(1) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;

(2) Any pending or anticipated litigation or contract negotiations;

(3) Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer, or

(4) Any matter involving the employment, promotion, discipline, or dismissal of a specific employee of the association.

(c) Minutes at Open Meetings. At each meeting required to be open to all unit owners, minutes of the proceedings shall be taken, and copies of those minutes shall be made available to all unit owners before the next open meeting.

Section 2. Notice Requirements for Open Meetings.

(a) Notice. Adequate notice of any open meeting shall be given to all unit owners.

(b) Adequate Notice. Adequate notice means written advance notice of at least 48 hours, giving the date, time, location, and to the extent known, the agenda of any regular, special, or rescheduled meeting. Such notice shall accurately state whether formal action may or may not be taken. This notice shall be:

(1) Prominently posted in at least one place within the condominium property reserved for such or similar announcements.

(2) Mailed, telephoned, telegrammed, faxed, or hand delivered to at least two newspapers designated by the association governing board.

(3) Filed with the association secretary or administrative officer responsible for administering the association business office.

(c) Annual Posting of Open Meetings. At least once each year within seven (7) days following the annual meeting of the association, the governing body shall post and maintain posted throughout the year, notice of meetings in those locations set forth above.

4  
DB5839P093

(d) **Emergency Meetings.** In the event that an association's Executive Board meeting is required to deal with such matters of urgency and importance that delay, for the purpose of providing 48 hours advance notice, would result in substantial harm to the interests of the association, the notice shall be deemed adequate if it is provided as soon as possible following the calling of the meeting.

(e) **Waiver of Notice of Meetings (Option).** Any action which may be taken at a meeting of members may be taken without a meeting if authorized by a writing signed by the required percentage of members entitled to vote for that particular matter.

**Section 3. Annual Meetings.** All regular annual meetings of the Members of the Homeowner's Association shall be held during the month of October unless a new date is established by the Board. At each annual meeting subject to the provisions of Article III, the election of Directors shall take place. If the election of Directors shall not be held at the annual meeting or at any adjournment of such meeting, the Board shall cause the election to be held at a special meeting as soon thereafter as may be convenient. At such special meeting the Members may elect the Directors and transact other business with the same force and effect as at an annual meeting duly called and held.

**Section 4. Special Meetings.** Special meetings of Members shall be called by the President when required by Article III, Section 3 of these By-Laws, or may be called by the President whenever the President deems such a meeting advisable or shall be called by the Secretary when so ordered by the Board or upon the written request of Members representing not less than twenty percent (20%) of all the votes entitled to be cast at such meeting. Such request shall state the purpose(s) of such meeting and the matter(s) proposed to be acted upon. Unless Members representing at least fifty percent (50%) of all votes entitled to be cast request such a meeting, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at any meeting of the Members held during the preceding twelve months, which determination shall be made in the sole and absolute discretion of the Board.

**Section 5. Notice of Meeting.** Except as otherwise provided by law or these By-Laws, notice of each meeting of Members, whether annual or special, shall be given not less than ten (10) days, nor more than ninety (90) days before the day on which the meeting is to be held, to each Member entitled to vote at such Member's last known address, by delivering a written or printed notice thereof to such address, or by mailing such notice, postage prepaid. Except where expressly required by law, no publication of any notice of a meeting of Members shall be required. Every such notice shall state the time and place of the meeting and shall state briefly the purpose(s) thereof. Notice of any adjourned meeting of the Members shall not be required to be given except when otherwise expressly required by law.

**Section 6. Quorum.** At each meeting of the Members, Members (including Developer and Builders) in good standing holding thirty percent (30%) of the then existing votes, present in person or by proxy, shall constitute a quorum for the transaction of business

except where otherwise provided by law. In the absence of a quorum, the persons holding votes present in person or by proxy and entitled to vote, by majority vote, may adjourn the meeting from time to time, until a quorum shall be present or represented. At any such adjourned meeting at which a quorum may be present, any business may be transacted which might have been transacted at the meeting originally called.

Section 7. Organization. At each meeting of the Homeowner's Association, the President, or, in the President's absence, the Vice President, or in the absence of both of them, a person chosen by the remaining Directors, shall act as chairperson, and the Secretary, or in the Secretary's absence, a person whom the chairperson shall appoint, shall act as Secretary of the meeting.

Section 8. Voting. Except as otherwise required by the Certificate, the Declaration or any law, a quorum being present, a majority of votes present in person or by proxy shall be sufficient on those matters which are to be voted on by the Members. The election of Directors shall be by ballot. Unless determined by a majority of the votes of the Members present in person or by proxy at such meeting and entitled to vote thereat or determined by the chairperson of the meeting to be advisable, the vote on any other questions need not be by ballot. Only Members who are in good standing in the Homeowner's Association shall be entitled to vote.

Section 9. Judges. If at any meeting of the Members a vote by ballot shall be taken, the chairperson of such meeting shall appoint at least two persons to act as judges with respect to the ballots. Each judge so appointed shall first subscribe to an oath to execute faithfully the duties of a judge with strict impartiality and according to the best of her or his ability. Such judges shall decide any question of the qualifications of voters; shall report the number of votes represented at the meeting and entitled to vote on such question; shall conduct and accept the votes; shall ascertain and report the number of votes for and against the questions, but as to the election of Directors, the number of votes received by each candidate need not be reported. Reports of judges shall be in writing and subscribed to and delivered by them to the Secretary of the meeting. The judges need not be Members of the Homeowner's Association and any officer or Director of the Homeowner's Association may be a judge on any question, other than a vote for or against her or his election to any position with the Homeowner's Association in which she or he may be directly interested.

Section 10. A Member in Good Standing. A Member shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting of the Homeowner's Association if, and only if, such Member shall have fully paid all installments due for assessments made or levied against such Member and such Member's Unit by the Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to such Member and to such Member's Unit, at least three (3) days prior to the date fixed for such meeting, and shall have complied with any requirement for good standing as may be established by the Board and applied to all Members.

6

DB5839P095

**Section 11. Conduct of the Meeting.** The order of business at the annual meeting of the Members or at any special meeting, as far as practicable, shall be:

- (a) Calling of the roll and certifying the proxies.
- (b) Proof of notice of meeting and waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Appointment of judges, if appropriate.
- (e) Election of Directors, if appropriate.
- (f) Receiving reports of officers.
- (g) Receiving reports of committees.
- (h) Old business.
- (i) New business.
- (j) Adjournment.

**Section 12. Ballot by Mail.** The Board, in lieu of calling a Membership meeting, may submit any question, or election other than a transition election held pursuant to Section 3 of Article IV herein, to a vote of the Membership by a ballot by mail. No ballot by mail shall be valid or tabulated unless the signature of the Member submitting the ballot has been verified on the ballot by a notary public. The Board shall appoint judges to tabulate the ballot whose report shall be included in the minute book of the Homeowner's Association. To conduct a ballot by mail for a question submitted to a vote of the Membership, the Board shall serve a notice upon all Members in good standing which notice shall (i) state with specificity in terms of motion(s) the question(s) upon which the vote is to be taken; (ii) state the date by which ballots must be received to be counted; (iii) provide an official ballot for the purposes of the vote; and (iv) state the date upon which the action contemplated by the motion(s) shall be effective, which date shall be not less than ten days after the date ballots must be received. No actions contemplated by a question submitted to a ballot by mail shall be taken unless Members in good standing holding a majority of the votes entitled to be cast submit ballots approving such action.

To conduct a ballot by mail for an election of Directors, the Board shall serve a notice upon all Members in good standing which shall (i) provide an official ballot for the purposes of the election; and (ii) state the date by which the ballot must be received to be counted.

#### **ARTICLE IV: BOARD OF DIRECTORS**

**Section 1. Express and Implied Powers and Duties.** The property, affairs and business of the Homeowner's Association shall be managed by the Board of Directors, which shall have all those powers granted to it by the Certificate, the Declaration, these By-Laws, and by law.

DB5839P096

**Section 2. Number and Control of the Homeowner's Association.**

The affairs of the Homeowner's Association shall be governed by the Board of Directors. Membership in good standing shall be a qualification for a non-Developer appointee or nominee to a Directorship, as well as election thereto. Co-Owners holding a Membership in good standing may designate any one of them to stand for election or serve as a Director. Any Director elected by Owners other than the Developer and Builders who conveys title to his or her Unit is automatically disqualified as a Director effective on the date of said conveyance. The first Board of Directors shall consist of the three (3) persons named in the Certificate or otherwise appointed by Developer.

Prior to the sixtieth (60th) day after conveyance to Owners other than Developer and Builders, of title to 25% or more of the total number of completed and prospective Units within the Entire Tract, Developer shall appoint all Directors. Within sixty days after conveyance to Owners other than Developer and Builders, of title to 25% of the Units at least 25% of the Directors shall be elected by Members other than the Developer and Builders. Within 30 days after 25% or more of the Units are so conveyed, the President shall call, and give not less than 20 days' nor more than 30 days' notice of, a meeting of the Membership to hold an election ("25% Transition Election"). At the meeting, the Board shall be expanded to five (5) Directors, two (2) of whom shall be elected by Members other than Developer and Builders and three (3) of whom shall be appointed by the Developer. Within sixty days after conveyance to Owners other than Developer and Builders, of title to 50% of the Units, at least 40% of the Directors shall be elected by Members other than the Developer and Builders. Within 30 days after 50% or more of the Units are so conveyed, the President shall call, and give not less than 20 days' nor more than 30 days' notice of, a meeting of the Membership to hold an election ("40% Transition Election"). At the meeting, the Board shall be expanded to seven (7) Directors, three (3) of whom shall be elected by Members other than the Developer and Builders and four (4) of whom shall be appointed by the Developer. Within sixty days after conveyance to Owners other than Developer and Builders, of title to 75% of the Units, all Directors, except as specified below, shall be elected by Members other than the Developer and Builders. Within 30 days after 75% or more of the Units are so conveyed, the President shall call, and give not less than 20 days' notice nor more than 30 days' notice of, a meeting of the Membership to hold an election ("75% Transition Election"). At the meeting, the Board shall be expanded to nine (9) Directors, all of whom shall be elected by Members other than the Developer and Builders, except as specified below.

Despite anything herein contained to the contrary, Developer shall be entitled to appoint one (1) Director so long as Developer or any Builders holds one or more Units or Lots for sale in the normal course of business.

Despite the foregoing, the Developer:

DB5839P097



The three Directors elected at the 40% Transition Election shall serve two-year terms or until the 75% Transition Election, whichever occurs first. If their two-year term expires before the 75% Transition Election, then the President shall call a meeting of the Membership to elect successors whose term shall be for two years or until the 75% Transition Election, whichever occurs first. If successors' terms expire before the 75% Transition Election, the President shall call additional meetings of the Membership to elect successors.

At the 75% Transition Election, the five Directors receiving the most votes shall serve three-year terms and the other newly-elected Directors shall serve two-year terms. The last remaining Developer-appointed Director, if any, shall serve until a successor has been elected and qualified at the Final Transition Election. The Director elected as successor shall serve a term expiring at the second annual election after the Final Transition Election. Thereafter, this remaining Directorship position shall have a two-year term, subject to the following provision.

It is the purpose and intent hereof that subsequent to the Final Transition Election, the election of five Directors shall be held in alternate years to the election of the remaining four Directors.

DB5839P098

The Directors shall hold office until their respective successors have been duly elected and qualified, or until removed in the manner elsewhere provided. If at any meeting for election of membership to the Board more than twice the number of candidates to be elected at such meeting are nominated, then, and in such event, there shall be two ballots for membership. At the end of the first ballot, the field of nominees shall be reduced so that there are twice as many candidates as there are positions to be filled, with the persons receiving the fewest votes being eliminated from the ensuing ballot. A second ballot shall be held, and on the second ballot, the persons receiving the most votes will be deemed to be elected to fill the vacant positions. If there are not more than twice the number of nominees for the number of positions to be filled, then there shall be one ballot, with the persons receiving the most votes being elected to fill the vacancies on the Board. The candidates polling the highest numbers of votes will be considered elected for the longest period of years. Election of Directors at successive annual meetings shall be in accordance with this Section 3. While the Developer maintains a majority of the Board of Directors, it shall make no additions, alterations, improvements or purchases which would necessitate a special assessment or a substantial increase in the monthly assessment unless required by a government agency, title insurance company, mortgage lender or in the event of an emergency.

**Section 4. Developer's Protective Provisions.** After control of the Board has become vested in Directors elected by Unit Owners other than the Developer or any Builder, and so long as the Developer owns Unsubdivided Land or at least one Lot or Unit and holds same for sale in the ordinary course of business, the following shall apply:

10

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(i) shall surrender control of the Board by permitting Members other than the Developer and Builders to elect all Directors in the event seventy-five percent (75%) or more of the total Units are not conveyed by the Developer or any Builders to unrelated purchasers by the twentieth (20th) anniversary date of the recordation of the Declaration; and

(ii) may surrender control of the Board by permitting Members other than the Developer and Builders to elect a majority or all of the Directors prior to being required to effectuate such surrender as provided herein provided the Members other than the Developer and Builders agree by majority vote to assume control at such earlier point in time.

Within 30 days of the time when the Developer is no longer entitled to appoint one Director, the President shall call, and give not less than 20 days' nor more than 30 days' notice of, a meeting of the Membership at which Unit Owners other than the Developer and Builders shall be entitled to elect the remaining Director ("Final Transition Election").

Upon assumption of control of the Board by Members other than the Developer and Builders, the Developer shall forthwith deliver to the Board all items and documents pertinent to the Homeowner's Association such as, but not limited to, a copy of the Declaration, as recorded, together with any recorded amendments to same, a copy of the Certificate of Incorporation of the Homeowner's Association, as recorded with the Atlantic County Clerk's Office and filed with the Office of the Secretary of State, a copy of the By-Laws of the Homeowner's Association, as recorded, together with any recorded amendments thereto, the Minute Book of the Homeowner's Association, a current copy of all Rules and Regulations promulgated by the Board and an accounting of all Homeowner's Association funds. Additionally, on the assumption of control of the Board by Members other than the Developer and Builders, the Developer shall deliver to the Board any balance of Homeowner's Association funds, all personal property of the Homeowner's Association, any insurance policies of the Homeowner's Association, any government permits obtained by the Developer in connection with Blue Heron Pines, a current membership roster of the Homeowner's Association and all contracts and agreements to which the Homeowner's Association is a party.

Section 3. Election and Term of Office. Developer-appointed Directors shall serve terms which are at the discretion of the Developer until a Director is elected by Unit Owners other than the Developer and Builders and qualified to serve as a successor.

The two Directors elected at the 25% Transition Election shall serve two-year terms or until the 40% Transition Election, whichever occurs first. If their two-year term expires before the 40% Transition Election, then the President shall call a meeting of the Membership to elect successors whose term shall be for two years or until the 40% Transition Election, whichever occurs first. If successors' terms expire before the 40% Transition Election, the President shall call additional meetings of the Membership to elect successors.

(a) Neither the Members nor the Board shall take any action that will impair or adversely affect the rights of the Developer or cause the Developer to suffer any financial, legal, or other detriment, including but not limited to any direct or indirect interference with the sale of Units or Lots, or the assessment of the Developer as a Unit Owner, or otherwise, for capital improvements.

(b) The Members and the Board shall continue the same level of maintenance, operation and services as provided immediately prior to such assumption of control of the Board.

(c) In furtherance of the foregoing provisions, the Developer shall have the right to veto any and all actions of the Members or the Board which may have any direct or indirect detrimental impact upon the sale of units by the Developer as may be determined by the sole reasonable discretion of the Developer. The Developer shall exercise its veto right, in its sole and absolute discretion, within ten (10) days after its receipt of notice that a resolution or other action is proposed or has been taken by the Members or the Board. In such event, the Developer shall notify the Secretary of the Homeowner's Association of its exercise of its veto right and any such proposal or action shall be deemed null and void ab initio and of no further force and effect.

The aforementioned protective provisions shall be construed in accordance with and not in derogation of the provisions of N.J.A.C. 5:26-8.4 of the regulations promulgated pursuant to the New Jersey Planned Real Estate Development Full Disclosure Act, N.J.S.A. 45:22A-21 et seq.

**Section 5. Removal of Members of the Board.** At any duly held regular or special meeting of the Members, any one or more Directors other than Developer-appointed Directors may be removed with or without cause by a majority of the votes present and a successor may then and there or thereafter be elected or appointed by a majority of the remaining Directors to fill the vacancy thus created, or by the Members if there be no Directors remaining. Each Director so appointed or elected shall be a Director for the remainder for the term of the removed Director(s) and until a successor is duly elected and qualified. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting. This section shall not apply to any Directors appointed by the Developer. Further, Developer shall not be entitled to cast its votes for removal of Directors not appointed by it.

**Section 6. Vacancies.** Vacancies in the Board caused by any reasons other than the removal of a Director by a vote of the Members shall be filled by a vote of a majority of the remaining Directors, including the Developer's appointees, at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy. Each person so elected shall be a Director for the remainder of the term of the Director whose term he or she is filling and until a successor shall have been elected and qualified. Despite the foregoing, vacancies of Directors appointed by Developer shall be filled by Developer, and

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vacancies of Directors elected by the Member, other than Developer and Builders shall be filled by such Members.

**Section 7. Meeting of the Board; Notices; Waiver of Notice.** The first meeting of the Board following the first annual meeting of the Members shall be held within fourteen (14) days thereafter at such time and place as shall be fixed by a majority of the Directors at the annual meeting of the Members and no notice shall be necessary. Thereafter, regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four regular meetings shall be held each year. Notice of regular meetings of the Board shall be given to each Director by telephone, mail or telegram at least seven (7) business days prior to the day of the meeting. Notice of the four regular meetings shall be given to all Members by posting a schedule thereof at the Blue Heron Pines Golf Clubhouse or such other place as the Board determines during the month of January of each calendar year. Special meetings of the Board may be called by the President on three (3) business days notice to each Director, given by mail or telegram, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or the Secretary in a like manner and on like notice on the written request of at least three (3) Directors. Any Director, at any time, may waive notice of any meeting of the Board in writing, and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by a Director at any meeting of the Board shall constitute a waiver of notice by that Director of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 8. Quorum and Adjourned Meetings.** At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of a majority of the Directors present and voting at a meeting at which a quorum is present shall constitute a valid decision. If at any meeting of the Board there shall be less than a quorum present, the majority of those present shall adjourn the meeting to a new date. At any such adjourned meeting at which a quorum is present, any business which may have been transacted at the original meeting may be transacted without further notice. The vote of a majority of those present at a Board meeting at which a quorum is present shall be necessary for valid action by the Board.

**Section 9. Consent in Lieu of Meeting and Vote.** Despite anything to the contrary in these By-Laws, the Certificate or the Declaration, the entire Board shall have the power to take action on any matter on which it is authorized to act, without the necessity of a formal meeting and vote if all of the Directors entitled to vote shall consent in writing to such action.

**ARTICLE V: POWERS AND DUTIES OF BOARD OF DIRECTORS**

**Section 1. General Powers and Privileges.** The Board shall have all those powers, granted to it or necessarily implied by law or by the Certificate of Incorporation, these By-Laws or the Declaration, including but not limited to the following:

- (a) To employ, by contract or otherwise, a manager, managing agent or an independent contractor, and staff to oversee, supervise and carry out the responsibilities of the Board. Said manager, managing agent or independent contractor and staff shall be compensated upon such terms as the Board deems necessary and proper; and
- (b) To employ any person, firm or corporation to repair, maintain or renovate the Homeowner's Common Property; to lay pipes or culverts; to bury utilities; to put up lights or poles; to erect signs and traffic and safety controls of various sorts on said Homeowner's Common Property; and
- (c) To employ professional counsel and to obtain advice from persons, firms or corporations such as, but not limited to, landscape architects, architects, engineers, attorneys and accountants; and
- (d) To employ all managerial and administrative personnel necessary, or enter into contracts for the efficient discharge of the duties of the Board hereunder; and
- (e) To employ or contract for water and sewer, electricity and gas or other forms of utilities, cable or master antenna television for the Homeowner's Common Property; and
- (f) To adopt, amend, and publish rules and regulations covering the details of the operation and use of the proprietary common property including, but not limited to, pet controls; and
- (g) To secure full performance by Members of all items of maintenance for which they are responsible; and
- (h) To arrange for security protection as necessary; and
- (i) To enforce obligations of the Members and do anything and everything else necessary and proper for the sound management of Homeowner's Common Property, including the right to bring or defend lawsuits to enforce the covenants, conditions and restrictions contained in the Declaration, these By-Laws and any Rules and Regulations governing Homeowner's Common Property. The Board shall also have the power to levy fines against any Member(s) for violations of any of the foregoing. Collection of fines may be enforced against any Member(s) involved as if the fine were a Common Expense Assessment owed by the particular Member(s), and such fines shall constitute a lien upon a particular Member's Unit; and

(j) To borrow and repay monies, giving notes, mortgages or other security upon such term or terms as it deems necessary; and

(k) To invest and reinvest monies, sue and be sued; collect interest, dividends, and capital gains; exercise rights; pay taxes; make and enter into contracts; enter into leases or concessions; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and all other powers contained herein, and those necessary and incidental thereto; and

(l) To grant and obtain easements, licenses and other property rights with respect to the Homeowner's Common Property and contiguous lands; and

(m) To purchase or lease or otherwise acquire in the name of the Homeowner's Association or its designees, corporate or otherwise, on behalf of all Members, Units offered for sale or lease or surrendered by their Owners to the Board; and

(n) To purchase Units at foreclosure or other judicial sales in the name of the Homeowner's Association or its designees, corporate or otherwise, on behalf of all Members; and

(o) To sell, lease, mortgage (but not vote the votes appurtenant thereto) or otherwise deal with Units acquired by the Association, and sublease any such Lots or Units leased by the Homeowner's Association or its designees, on behalf of all Members; and

(p) To bring and defend actions by or against one or more Unit Owners pertinent to the health, safety or general welfare of the Members, or any other legal action to which the Owners may consent in accordance with these By-Laws; and

(q) To appoint an insurance Director, in accordance with the Declaration, who shall discharge her or his duties in accordance with these By-Laws and the Declaration. In the absence of such an appointment, the Board shall be responsible for the disposition of all insurance proceeds; and

(r) To create, appoint members to and disband such committees as shall from time to time be deemed appropriate or necessary to aid the Board in the discharge of its duties, functions and powers.

(s) To perform any and all acts necessary and advisable on behalf of the Condominium Association in connection with the delegation by Condominium Association to the Homeowner's Association of duties of maintenance, administration and operation of Condominium Common Elements.

Section 2. Duties and Responsibilities. It shall be the affirmative and perpetual obligation and duty of the Board to perform the following:

(a) To cause the Homeowner's Common Property to be maintained according to standards set by the Board and as set forth in the Declaration and these By-Laws; and

(b) To investigate, hire, pay, supervise and discharge the personnel necessary to be employed, and provide the equipment and materials necessary, to properly maintain and operate Homeowner's Common Property as contemplated by the Declaration and these By-Laws; and

(c) To cause to be kept a complete record of all its acts and corporate affairs and to present a summary report thereof to the Members at the annual meeting or at any special meeting when requested in writing at least twenty-one (21) days in advance by Members entitled to cast at least twenty-five percent (25%) of the total votes of the Homeowner's Association; and

(d) To make repairs, additions, improvements to, or restoration of Homeowner's Common Property in accordance with the provisions of these By-Laws and the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings; and

(e) To take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises maintained by the Homeowner's Association placed thereon by any federal, state, county or municipal authority having jurisdiction thereover, and order of the Board of Fire Underwriters or other similar bodies; and

(f) To place and keep in force all insurance coverages required to be maintained by the Homeowner's Association, applicable to its property and Members including, but not limited to general liability, all risk, officers and director's liability and worker's compensation insurance, flood (in the event any of the Homeowner's Common Property is located in a federally-designated zone of greater than minimal flood hazard).

Any insurance maintained by the Board may provide for such deductible amount as the Board may determine. Despite any other provisions of this subparagraph, the Board shall not be required to obtain or maintain any type or amount of insurance not commonly available in the normal commercial marketplace.

(g) To manage the fiscal affairs of the Homeowner's Association as hereinafter provided.

(h) To prepare and file tax returns of the Homeowner's Association.



(f) To perform any and all acts necessary and advisable on behalf of future Condominium Association in connection with the delegation by the Condominium Association to the Homeowner's Association of duties of maintenance, administration and operation of Condominium Common Elements, in accordance with the terms of such delegation, subject to standards set by the Board and as set forth in the Declaration, the Certificate of Incorporation and these By-Laws.

#### ARTICLE VI: FISCAL MANAGEMENT

Section 1. Common Expense Assessments. The Board shall have the duty to collect from each Member, except Associate Members, his, her, or their heirs, administrators, successors and assigns, as "Common Expense Assessments," the proportionate expenses assessed against such Member as provided in the Declaration, the Certificate, these By-Laws, and in accordance with applicable law.

Section 2. Determination of Common Expense Assessments. The amount of monies to meet Common Expenses deemed necessary by the Board and the manner of expenditure thereof, including but not limited to, the allocation thereof, shall be a matter for the discretion of the Board. Each Member shall receive at least thirty (30) days' prior written notice of any increase in Assessments for Common Expenses.

Section 3. Optional Services. In addition to the required duties and responsibilities, the Board may furnish, but shall not be required to furnish, such programs and services as the Board, from time to time, by resolution, may propose; provided, however, that such additional services or programs are authorized by a vote of fifty-one percent (51%) of Members other than the Developer and any Builder present entitled to vote and in good standing at a meeting at which a quorum exists duly called for such purpose, written notice of which shall have been sent to all Members at least thirty (30) days in advance, with such notice containing the purpose of the meeting and the proposed additional service or program to be authorized.

Section 4. Disbursements. The Board shall take and hold the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Declaration, the Certificate and applicable law.

Section 5. Depositories. The depository of the Homeowner's Association shall be such a bank or banks as shall be designated from time to time by the Board and in which the monies of the Homeowner's Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such parties as are authorized by the Board, provided that a management agreement may include among its provisions authority for the manager to sign checks on behalf of the Homeowner's Association for payment of the obligations of the Homeowner's Association, if the proper fidelity bond is furnished to the Homeowner's Association.



**Section 6. Accounts.** The receipts and expenditures of the Homeowner's Association shall be credited and charged to accounts under the following classifications as the Board shall deem appropriate:

(a) Current expenses, which shall include all expenditures within the year for which the budget is made, including reasonable allowances for contingencies and working funds. Current expenses shall not include expenditures chargeable to reserves. At the end of the year, the unexpended amount remaining in this account applicable to a particular budget shall be applied to reduce the assessments for current expenses for the succeeding year, or may be distributed to the current Members in the same manner as assessed, as the Board, in its sole discretion, shall determine.

(b) Reserve for deferred maintenance, if any, which shall include funds for any maintenance items that occur less frequently than annually.

(c) Reserve for replacement, which shall include funds for repair or replacement of the Homeowner's Common Property and those portions of the Homeowner's Common Property for which repair or replacement is required because of damage, depreciation or obsolescence. The amounts in this account shall be allocated among each of the separate categories of replacement items.

(d) Reserve for capital improvements, if any, which shall include funds to be used for any capital expenditures or for any acquisition of additional personal property that will be part of the Homeowner's Common Property.

The Board shall not be required to physically segregate the funds held in the above accounts except for reserves for replacement and repair and escrow deposits, if any, which funds must be maintained in separate accounts. The Board may, in its sole discretion, maintain the remaining funds in one or more consolidated accounts. As to each consolidated account, the division into the various accounts set forth above need be made only on the records of the Homeowner's Association.

**Section 7. Reserves.** The Board shall not be obligated to expend all of the revenues collected in any accounting period and must maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather or uncollected accounts. The amounts assessed and collected for the reserves, shall be kept in one or more interest-bearing savings accounts, or certificates of deposit, and these amounts, together with any and all interest thereon, shall not be utilized for any purpose other than the purpose of the reserves which was contemplated at the time of assessment. The foregoing shall not be construed to mean that the Board shall not be permitted to keep additional cash on hand, in a checking or petty cash account, for the necessary discharge of its functions.

**Section 8. Exemption from Assessments for Capital Improvements.** Despite anything to the contrary herein, neither Developer, nor any successor Developer, nor any

Institutional Lender shall be required to pay any assessment for capital improvements, except for those validly required by a governmental agency, whether by way of regular or special assessments or otherwise. Further, this provision may not be amended without the written consent of the Developer and that of every Institutional Lender. Developer shall also make subsidy payments as required under the Declaration.

**Section 9. Notice.** The Board shall give notice to each Member, in writing, and to any Institutional Lender who requires same, of the amount estimated by the Board for Common Expense Assessments for the management and operation of the Homeowner's Association for the next ensuing period, directed to the Member at her or his last known address by ordinary mail, or by hand delivery. Said notice shall be conclusively presumed to have been delivered five (5) days after deposit in the United States mails. In the event the annual Common Expense assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board subject to Section 2 hereof, provided that nothing herein shall serve to prohibit or prevent the Board from imposing a lump sum assessment in the case of any immediate need or emergency which cannot be met by reserve funds earmarked for such contingency.

**Section 10. Acceleration of Assessment Installment upon Default.** If a Unit Owner, other than Developer or any Builder, shall be in default in the payment of an installment upon a Common Expense assessment, the Board may notify such defaulting Owners of the delinquent installment due and may accelerate the remaining installments of the assessment and file a lien for such accelerated amount upon notice to such defaulting Owner. If the delinquent installment has not been theretofore paid and if the Board elected to accelerate the remaining installments, the then unpaid balance of the Common Expense assessment shall become due upon the date stated in the notice, which date shall not be less than five (5) days after delivery of the notice to such Member, or not less than ten (10) days after the mailing of such notice to her or him by registered or certified mail, whichever shall first occur. If no such notice is given or if such notice is given but the Board did not elect to accelerate the remaining installments and default shall continue for a period of forty-five (45) days after the date due, then the Board shall be required to accelerate the remaining installments of the assessment upon notice to the defaulting Owner, and to file a lien for such accelerated assessment as permitted by law; in such latter event the Board may also notify any Institutional Lender holding a mortgage which encumbers the Unit affected by such default or publish appropriate notice of such delinquency to the Membership of the Association. If said default continues for a period of ninety (90) days after the date due, then the Board shall foreclose the foregoing lien pursuant to law and/or commence a suit against the appropriate parties to collect said assessment.

**Section 11. Interest and Counsel Fees.** In accordance with the Declaration and these By-Laws, the Board at its option shall have the right in connection with the collection of any Common Expense assessment, or other charge, to impose a late charge in the amount of 10% of the Assessment. The delinquent Assessment, plus the late charge, shall bear interest from the date the late charge arose at the rate of 18% per year, or at the maximum rate permitted

by law for delinquent real estate taxes, whichever is greater, until paid in full. In the event that the Board shall effectuate collection of said assessments or charges by resort to counsel, and/or the filing of a lien, or other legal action, the Board may add to the aforesaid assessments or charges the amount of all reasonable counsel fees, plus the reasonable costs for the preparation, filing and discharge of the lien, in addition to such other costs of collection as may be allowable by law.

(a) In the case of any action or proceeding brought or defended by the Homeowner's Association or the Board pursuant to the provisions of these By-Laws, the reasonable costs and expenses of preparation and litigation, including attorneys' fees, shall be a Common Expense allocated to all Members.

(b) Any judgments recovered by the Homeowner's Association in any action or proceeding brought hereunder, including costs, penalties or damages, shall be deemed a special fund to be applied to: (i) the payment of unpaid litigation expenses; (ii) refunding to the Members the cost and expenses of litigation advanced by them; (iii) Common Expenses, if the recovery thereof was the purpose of the litigation; (iv) repair or reconstruction of the Homeowner's Common Property, if recovery of damages to same was the motivation for the litigation; and (v) any amount not applied to (i), (ii), (iii) and (iv) above shall be at the discretion of the Board treated either as a common surplus which shall be allocated and distributed pursuant to the applicable provisions of the Declaration, or a set-off against the annual Common Expense assessments generally.

Despite the foregoing, if any Member, the Board or any other person or legal entity affected by any such distribution, shall assert that the damages sustained or the diminution in value suffered by any Member was disproportionate, in that event the matter shall be submitted to binding arbitration to be decided in accordance with the procedure set forth in Article XII hereof.

(c) All Common Expenses Assessment amounts received and to be received by the Board for the purpose of paying any judgment obtained against the Homeowner's Association or the Board, and the right to receive such funds, shall constitute trust funds and the same shall be expended first for such purpose before expending any part of the same for any other purpose.

(d) In the event that any Member(s) succeed in obtaining a judgment or order against the Homeowner's Association or the Board, then, in addition to any other sums to which such Member(s) would otherwise be entitled by such judgment or order, such Member(s) shall also be entitled to the restitution or recovery of any sums paid to the Board as assessments for litigation expenses in relation to said action or proceeding.

**Section 12. Power of Attorney to Institutional Lender.** In the event the Board shall not cause the enforcement procedures provided in Section 8 above to be implemented within the time provided, any Institutional Lender for any Unit as to which there shall be such

unpaid Common Expense assessments is hereby irrevocably granted a power of attorney to commence such actions and to invoke such other remedies, all in the name of the Homeowner's Association. This power of attorney is expressly stipulated to be coupled with an interest in the subject matter.

**Section 13. Annual Audit.** The Board shall submit the books, records, and memoranda of the Homeowner's Association to an annual audit by an independent certified public accountant who shall audit the same and render a report thereon in writing to the Board and in summary form to the Members and such Institutional Lenders or other persons, firms or corporations as may be entitled to same. While the Developer maintains a majority of the Board, it shall have an annual audit of Homeowner's Association funds prepared by an independent accountant, at the Association's expense, a copy of which shall be delivered to each Owner within ninety (90) days of the expiration of the fiscal year of the Homeowner's Association. The audit shall cover the operating budget and reserve accounts.

**Section 14. Examination of Books.** Each Member shall be permitted to examine the books of account of the Board by appointment at a reasonable time on business days; provided, however, that the Treasurer has been given at least ten (10) days prior written notice of the Member's desire to make such an examination.

**Section 15. Fidelity Bonds.** Fidelity bonds shall be required by the Board from all persons handling or responsible for Homeowner's Association funds. The amount of such bonds shall be determined by the Board. The premiums on such bonds shall be paid by the Homeowner's Association. While the Developer maintains a majority of representation on the Board, it shall post a fidelity bond or other guarantee acceptable to the New Jersey Department of Community Affairs, in an amount equal to the annual budget; for the second and succeeding years, the bond or other guarantee shall include accumulated reserves.

**Section 16. Exempt Property.** Despite the foregoing, the following property, subject to the Declaration and these By-Laws, shall be exempted from the assessments, charges and liens created herein:

(a) all properties dedicated to and accepted by a local public authority and all property which, because of municipal, county, state or federal public use, cannot be devoted for use as a dwelling;

(b) all Homeowner Common Property;

(c) all property exempted from taxation under the laws of the State of New Jersey (including, but not limited to, Homeowner's Common Property used for church, school, municipal, county, state or charitable purposes) upon the terms and to the extent of such legal exemption; and

(d) all Lots, Units or Unsubdivided Land owned by the Developer or Builders.

#### ARTICLE VII: OFFICERS

Section 1. Designation. The principal officers of the Homeowner's Association shall be a President, a Vice-President, both of whom shall be members of the Board, a Secretary and a Treasurer. The Board may also appoint such other Assistant Treasurers and Assistant Secretaries as in their judgment may be necessary. Any two (2) offices, except that of President, Vice-President, Secretary and Treasurer, may be held by one person.

Section 2. Election of Officers. The officers of the Homeowner's Association shall be elected annually by the Board at the first Board of Directors meeting following each annual meeting and such officers shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the full number of members of the Board, any officer may be removed, with or without cause, after opportunity for a hearing, and his or her successor elected at any regular meeting of the Board, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Homeowner's Association. The President shall preside at all meetings of the Homeowner's Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of President of a Homeowner's Association.

Section 5. Vice-President. The Vice-President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board shall appoint some other Director to so do on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon her or him by the Board.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Members of the Homeowner's Association; shall have charge of such books and papers as the Board may direct; and shall, in general, perform all the duties of the office of the Secretary.

Section 7. Treasurer. The Treasurer shall have the responsibility for the Homeowner's Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Homeowner's Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit of the Homeowner's Association in such depositories as may from time to time be authorized by the Board.



**Section 8. Other Duties and Powers.** The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board.

**ARTICLE VIII: COMPENSATION, INDEMNIFICATION AND EXCULPABILITY OF OFFICERS, DIRECTORS AND COMMITTEE MEMBERS**

**Section 1. Compensation.** No compensation shall be paid to the President or the Vice-President or any Director or Committee Member for acting as such officer or Director or Committee Member. The Secretary and/or Treasurer or any assistant secretary or assistant treasurer may be compensated for their services if the Board determines that such compensation is appropriate. Nothing herein stated shall prevent any officer, Director or Committee Member from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Homeowner's Association, provided however that any such expenses incurred or services rendered shall have been authorized in advance by the Board.

**Section 2. Indemnification.** The Homeowner's Association shall indemnify any Person made a party to any action, suit, or proceeding, whether civil, administrative, or investigative (other than an action by or in the right of the Homeowner's Association) by reason of the fact of such Person's capacity as Director, officer, committee member, employee, servant or agent of the Homeowner's Association, against expenses (including reasonable attorney's fees and expenses), judgments, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding, except as to matters as to which such Person shall be ultimately found in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement of any such case, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Homeowner's Association is advised by counsel that the Person to be indemnified had not been guilty of gross negligence or willful misconduct. Any indemnification which the Homeowner's Association has elected to provide under this section shall be made by the Board by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding. The indemnification provided by this section shall not be deemed exclusive of any other rights to which anyone seeking indemnification may otherwise have.

**Section 3. Exculpability.** Unless acting in bad faith, neither the Board as a body nor any Director, officer or Committee Member of the Homeowner's Association, shall be personally liable to any Member in any respect for any action or lack of action arising out of his or her position. Each Member shall be bound by the good faith actions of the Board, officers and Committee Members of the Homeowner's Association, in the execution of the duties of said Directors, officers and Committee Members. Nothing contained herein shall be construed so as to exculpate members of the Board appointed by the Developer from discharging their fiduciary responsibilities.

**ARTICLE IX: COMMITTEES**

**Section 1. Architectural Design Review Committee (ADRC).**

(a) **PURPOSE.** The ADRC shall be established and its members appointed by the Board. The ADRC shall be responsible for reviewing and approving or disapproving any and all plans for any construction or other activity which falls within the scope of Section 4.01 of the Declaration. There shall be not less than 3 members of the ADRC who need not be Members. ADRC members appointed by the Board shall serve for 2 year terms. The initial term of ADRC members may be 1, 2, and 3 years, respectively, however, so that the tenure of all does not end in the same year. ADRC members shall be subject to removal by the Board at any time without cause.

(b) **POWERS.** The ADRC shall regulate the external design, appearance, use and maintenance of Homeowner's Common Property and review and approve modifications or changes to existing Units, including Homeowner's Common Property in accordance with standards and guidelines contained in the Declaration, these By-Laws or the Rules and Regulations as otherwise adopted by the Board. The ADRC shall have the power to issue a cease and desist request to a Unit Owner, his or her guests, invitees, or lessees whose actions are inconsistent with the provisions of the Declaration, these By-Laws, the Rules and Regulations or resolutions of the Board (upon petition of any Member or upon its own motion). The ADRC shall from time to time, as required, provide interpretations of the Declaration, the Certificate and these By-Laws Rules and Regulations and resolutions pursuant to the intents, provisions and qualifications thereof when requested to do so by a Unit Owner or the Board. Any action, ruling or decision of the ADRC may be appealed to the Board by any party deemed by the Board to have standing as an aggrieved party and a vote of a majority of the full authorized membership of the Board may modify or reverse any such action, ruling or decision or allow variances therefrom as contemplated in the Declaration.

(c) **AUTHORITY.** The ADRC shall have such additional duties, power and authority as set forth in the Declaration and as the Board may from time to time provide by resolution including the right to impose fines. The Board may relieve the ADRC of any of its duties, powers and authority either generally or on a case-by-case basis by vote of a majority of its full authorized membership thereof. The ADRC shall carry out its duties and exercise its powers and authority in the manner provided for in the Rules and Regulations or by resolution of the Board. Despite the foregoing, no action may be taken by the ADRC without giving the Unit Owner involved at least ten (10) days prior written notice and affording the Unit Owner the opportunity to be heard, with or without counsel, with respect to the violation(s) asserted.

**Section 2. Other Committees.** The Board may establish such other committees from time to time as it shall deem necessary or appropriate.



**ARTICLE X: FISCAL YEAR**

The fiscal year of the Association shall be on a year basis, or upon such basis as the Board shall deem advisable.

**ARTICLE XI: ENFORCEMENT**

Section 1. **Enforcement Powers.** The Homeowner's Association shall have the power, at its sole option, to enforce the terms of these By-laws or any Rules and Regulations promulgated pursuant hereto, by any or all of the following: self-help; sending notice to the offending party to cause certain things to be done or undone; restoring the Homeowner's Association to its original position and charging the breaching party with the entire cost or any part thereof; complaint to any authority having jurisdiction; taking any other action before any court, summary or otherwise, as may be provided by law.

Section 2. **Fines.** The Board shall have the power to levy fines against any Member for any violation of the Rules and Regulations of the Homeowner's Association or for any violation of the covenants, conditions and restrictions contained in the Declaration or these By-Laws, except that no fine may be levied for more than \$25.00 for any one violation; provided, however, that for each day a violation continues after notice, it shall be considered a separate violation. Collection of the fines may be enforced against any Member involved as if the fines were an Assessment owed by the particular Member. Despite the foregoing, before any fine is imposed by the Board, the Member involved shall be given at least ten days prior written notice and afforded an opportunity to be heard, with or without counsel, with respect to the violation(s) asserted.

**ARTICLE XII: ARBITRATION**

Unless otherwise agreed upon by all the parties involved, any arbitration provided for in these By-laws shall be conducted before one arbitrator in Atlantic County, New Jersey by the American Arbitration Association, in accordance with its then current rules and the decision rendered in such arbitration shall be binding upon the parties and may be entered in any court having jurisdiction. All expenses of arbitration or other dispute settlement proceeding incurred by the Homeowner's Association hereunder, including the fees and expenses of counsel and experts, shall be Common Expenses.

**ARTICLE XIII: MISCELLANEOUS**

Section 1. Examination of Books. Each Owner and each Institutional Lender shall be permitted to examine the books of account of the Board at a reasonable time on business days.

Section 2. Notices. All notices hereunder to the Homeowner's Association shall be in writing and forwarded to it at its principal office by certified mail, return receipt requested. Any notice required to be sent to any Member or any Institutional Lender under the provisions of these By-laws shall be deemed to have been properly sent and notice thereby given, when mailed, by regular United States mail, with postage prepaid, addressed to the Member or Institutional Lender at the last known post office address of such Member or Institutional Lender which appears on mailing. Notice to one of co-Owners of a Unit shall constitute notice to all co-Owners. It shall be the obligation of every Member to immediately notify the Secretary of the Homeowner's association in writing of any change of address. Valid notice may also be given to Members by (i) personal delivery to any occupant of a Unit over 14 years of age or (ii) by affixing said notice to or sliding same under the front door of any Unit.

Section 3. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the enforceability or affect the balance of these By-Laws.

Section 4. Waiver. No restriction, condition, obligation or covenant contained in these By-Laws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same irrespective of the number of violations or breaches thereof which may occur.

**ARTICLE XIV: AMENDMENTS**

These By-Laws, or any of them, may be altered or repealed, or new By-Laws may be made, at any meeting of the Membership duly constituted for such purpose, and previous to which written notice to Members of the exact language of the amendment or of the repeal shall have been sent, a quorum being present, by vote of 51% of Members present, in person or by proxy and entitled to vote thereon. No such new By-Law amendment or repeal shall in any way affect the Developer or a Builder unless the Developer and any affected Builder has given its prior written consent thereto and Directors appointed by the Developer still represent a majority of the members of the Board. Any amendment, repeal or new By-Law shall be recorded with the Atlantic County recording office. The Developer shall not be permitted to cast any votes held by it for unsold Lots, parcels, Units or interests to amend these By-laws for the purpose of changing the permitted use of a Lot, parcel, Unit or interest, or for the purpose of reducing the Homeowner's Common Property.

**ARTICLE XV: CONFLICT**

Anything to the contrary herein despite, if any provision of these By-Laws is in conflict with or contradiction of the Declaration, the Certificate of Incorporation, or with the requirements of any law, then the requirements of the Declaration, Certificate of Incorporation, or law shall be deemed controlling.

**EXHIBIT 6**  
**OF**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR THE**  
**BLUE HERON PINES HOMEOWNER'S ASSOCIATION, INC.**  
**Blue Heron Pines Architectural Guidelines**  
**Phase IIE**

DB5839P115

BLUE HERON PINES ARCHITECTURAL GUIDELINES

The Blue Heron Pines Architectural Guidelines are established to preserve a level of quality construction and continuity of Architectural theme throughout the community. The Golf Clubhouse is the flagship of this Standard, and all designs should reflect some of the qualities, design features, materials and/or colors found in that building.

Final Construction Drawings and Specifications for each proposed structure, along with specific materials and colors selections for each surface and trim, shall be submitted to the Developer and Golf Course Owner for a detailed review and written approval prior to commencing with construction.

Front loaded garages are generally required for residences, unless a specific lot size will allow side loading, and the Site Plan and Floor Plans are approved in advance by the Developer and Golf Course Owner. Consideration will be given to the Site Plan of adjacent property where side loaded garages are requested.

Drainage, lighting, noise and other created spill-over to adjacent properties will not be accepted and any such spill-overs that are created shall be removed or corrected by the Builder. Windows, doors, balconies and other vantage points, particularly from upper story levels, which view to adjacent property, especially to the side and back yards of the adjacent property, will not be accepted.

All colors will be within the earth tones, from ~~warm~~ greys, sands, peaches and tans to darker browns and greens. Bright or contrasting colors will not be accepted.

In general, exterior wall fields will be limited to only two major materials in each structure, unless otherwise approved by the Developer and Golf Course Owner. One predominate material, preferably brick, stone or stucco (or approved simulated stucco materials) should persist, not only on the front of the structure, but at least partially continued around the sides and back. Each of these materials will be consistent throughout in color and finish. Trim materials will be compatible to the field materials, and may be of a coordinating (and not a contrasting) color and finish. Changes from one of these materials to the other will be at an inside corner wherever possible. Where this is not possible, overlapping and returning joints away from an outside corner should be used, and butt joints avoided.

DB5839P116

Heavy weight composition shingles (240 points and up) is the standard roofing material and colors may vary slightly (when approved) from structure to structure. Exposed roofing materials will be of a consistent material, color, pattern and finish throughout each structure. Roof trim materials will be compatible to the exposed roofing, and may be of a coordinating (and not contrasting) color and finish with the roof and walls.

The homes will also utilize techniques that will minimize sound impact within the homes. Specifically, metal frame and foam core doors will be utilized. Additionally, double pane windows will be used with a construction rating of 35.

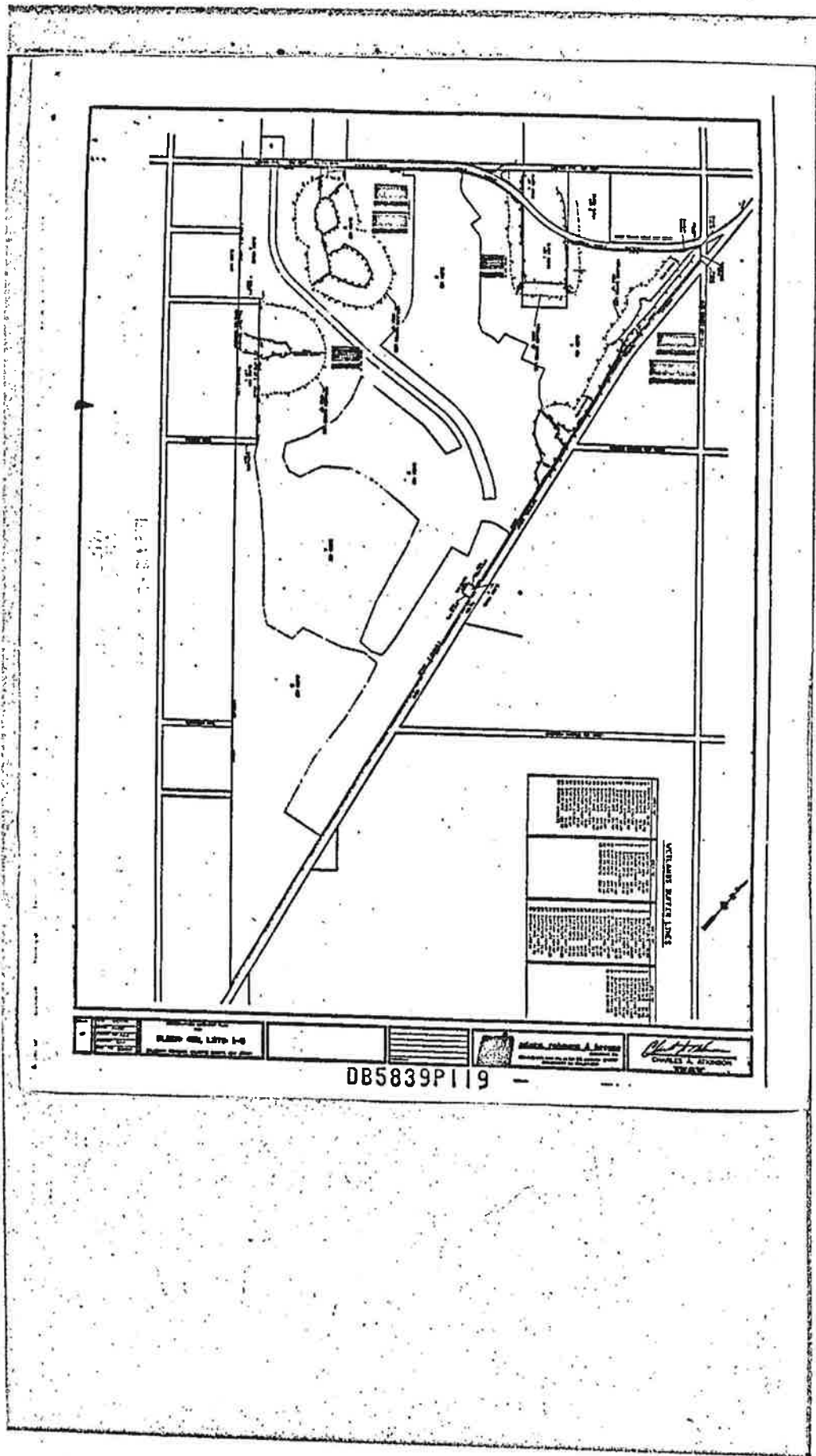
DB5839P117

**EXHIBIT 7**  
**OF**  
**THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR THE**  
**BLUE HERON PINES HOMEOWNER'S ASSOCIATION, INC.**

**Freshwater Wetlands Maps**  
**and**  
**Legal (Metes and Bounds) Description**

**DB5839P118**





331762 *cl*

*Master Deed*

*Ole Hansen & Sons Inc*

*to  
Blue Herons Fine  
Develop.*

*(Record in Deeds)*

RECORDED  
ATLANTIC COUNTY  
1995 AUG -3 PM 2:01

*Lori Mooney*  
COUNTY CLERK

In compliance with statute I have presented  
an abstract of the within to all assessors of  
the taxing district therein mentioned.  
LORI MOONEY, Clerk

NELSON JOHNSON  
219 N. WHITE HORSE PINE  
HAMMONTON, NJ 08037

119

DB5839P120

*CS# 719074  
LH2772 (FP3117)  
STA13434 (FP3117)*