

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

JUL 7 1 03 PM '87

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF BAYWOOD SUBDIVISION

THIS DECLARATION, made the 9th day of September, 1986, by RISING 3, INC., a North Carolina Corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Wilmington, New Hanover County, North Carolina, which is more particularly describes as follows:

Being all of Baywood Subdivision, as the same is shown on an Exhibit "A" attached hereto and fully incorporated by reference hereby as set out herein.

NOW THEREFORE, Declarant hereby declares that all the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run as appurtenances to real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors in title, and assigns, and shall inure to the benefit of each owner of any interest in the said Baywood Subdivision as above described.

1. Declarant has, or will, incorporate a homeowners association in the name Baywood Association, Inc., or a similar name, which shall be a North Carolina, non-profit corporation homeowners association for the owners of lots in Baywood Subdivision.

Every Owner of a lot in the Baywood Subdivision shall be a member of the association. Membership shall be appurtenant and may not be separated from ownership of any lot which is subject to this declaration.

The association shall have two classes of voting membership:

Class A, which members shall be all owners with the exception of Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members; however, the vote for such lot shall be exercised as the multiple owners determine among themselves, but in no event shall more than one vote be cast with respect to any lot.

Class B, members shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following two events, whichever occurs earlier: 1. when the total votes outstanding in Class A membership equals the total votes outstanding in the Class B membership, or 2. July 4, 1988.

2. All lots shall be used for residential purposes only.

3. No single story residence smaller than 1,200 square feet shall be constructed, located or permitted on any of the lots. All measurements shall be by exterior brick work or framework, and shall be exclusive of porches, steps, walks, garages, carports, storage areas, etc.

4. No concrete block, concrete brick, aluminum siding or cinder block shall be used for the exterior of any residence constructed on any building lot herein conveyed nor shall composition tar paper exterior be permitted, it being intended that only conventional frame or clay brick exteriors be constructed on any of the lots subject to these covenants.

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5. (A). No part of any building erected on any lot herein conveyed shall be near to the front property line nor any side boundary line than the minimum set back and side line provisions of the New Hanover County Zoning Regulations.

(B). No residential building lot as shown on the herein referred to map shall be resubdivided unless each portion of said resubdivided lot becomes a part of another whole lot in said subdivision.

6. No housetrailer, mobile home, tent, shack or temporary structure of any nature shall be located on any lot or used at any time as residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

7. No sign or billboard of any description shall be displayed on any lot, other than private name plates or signs for identification of the residents, and signs advertising the property "For Rent" or "For Sale".

8. No fence of any nature shall be erected, on any lot, that is higher than four (4) feet, and said fence shall not be located nearer the front lot line than the rear corners of the house constructed on lot. Fence materials used must be wood or chain-link type materials only, and no chicken wire or other wire material shall be permitted. It is permitted to build a privacy fence on the back lot line provided such fence does not exceed eight (8) feet in height.

(A). No noxious or offensive trade or activity shall be carried on or maintained on any lot or part of any lot, nor shall any use be made of any portion of said property which may be or become an annoyance or nuisance to the neighborhood.

(B). No domesticated farm animals or fowls shall be kept on the property, it being the intention of the Developers that only domesticated household pets shall be permitted.

(C). Unsightly inoperative junk cars, large trucks, buses, or other like eyesores cannot be maintained or stored on the property either prior to or after the residence thereon has been erected. This prohibition shall not be construed to prevent the maintenance or storage of recreational vehicles upon the property.

9. The homeowners may, with 62½% of property owners approval, take bids for road repair and maintenance, and assess each property owner an equal share of the cost per each unit owned.

10. Any garages, carports, storage areas, etc. shall be non-removable permanent construction on a concrete slab or pier-type foundation. Exterior shall be brick or wood siding with roofing to match the residence building.

11. All covenants and restrictions herein shall run with the land and shall be binding on all parties owning lots in said subdivision for a period of twenty (20) years from the date hereof, at which time these covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of the majority of the then owners of said lots not under legal disability, it is agreed to revoke or amend the same.

12. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other covenants herein, which shall remain in full force and effect.

13. If the parties hereto, or any of them, or their heirs and assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person, or persons, firms or corporation owning any real property situated in said subdivision to prosecute any proceeding at law or equity against the person or

persons, firm or corporation violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

14. The owner of each lot will be solely responsible at their own expense to properly maintain, repair and replace the living unit and all other improvements on their lot. Without limiting the generality of the foregoing, each owner, at his sole expense, shall be responsible for properly maintaining, repairing, replacing and keeping in a neat and attractive condition, the exterior and interior of the living unit on his lot, including the exterior building surfaces, roofs, windows, and other parts of such unit, as well as other improvements situated on his lot, and shall maintain in a neat and attractive condition the trees, shrubs, grass, and other parts of the yard making up his lot.

In the event that the owner fails to properly maintain, repair and replace the exterior building surfaces of his dwelling, the remaining property owners shall have the right to apply to the association for the association to accomplish the necessary maintenance, repairs, or replacement. Upon application of an owner, and an affirmative vote of 62½% of the members of the association, the association may make any necessary maintenance, repairs, or replacement on any unit, and there is hereby reserved to the association the right to unobstructed access over and upon each lot at all reasonable times to perform maintenance, repairs or replacement by the association. The cost of any such maintenance, repairs or replacement by the association shall be charged to the lot upon which maintenance, repairs or replacement is made and shall be a lien upon such lot as set forth hereinafter.

The Declarant, for each lot owned within the property, hereby covenants, and each owner of any lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay those charges for road replacement and repair and exterior building maintenance and repair. The charges assessed against any lot, together with interest, costs and reasonable attorneys fees shall be a charge on the land and shall be a continuing lien upon the property against which each charge is made. Each such charge, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who is the owner of such property at the time when the charge was assessed. Any charge not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the charges against his lot provided for herein by the non-use or abandonment of his lot.

15. It shall be the duty of the owner of every lot to maintain in effect casualty and liability insurance covering their lot and improvements thereon. All insurance policies should be in form and amount sufficient to completely assure against loss or damage by fire or other hazards normally insured against, and should contain provisions as follows:

(A). A waiver by the insurer of its right to repair and reconstruct instead of paying cash.

(B). Coverage may not be cancelled or substantially modified without at least thirty (30) days prior written notice to the named insured, all mortgagees, and the association.

(C). Coverage will not be prejudiced by the act or neglect of the lot owner of any adjacent lot when the said act or neglect is not within the control of the lot owner.

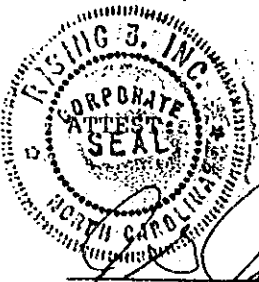
If any owner shall fail to maintain insurance on their lot, the association shall have the right to acquire such insurance, with the premium paid to be a charge against the lot, which charge shall become a lien as per the terms of paragraph 14 of this declaration.

IN WITNESS WHEREOF, the Declarant, RISING 3, INC., has caused this declaration to be signed in its corporate name by its President, and attested by its Secretary, with its corporate seal embossed hereon, all on this the day and year first above written.

RISING 3, INC.

(Corporate Seal)

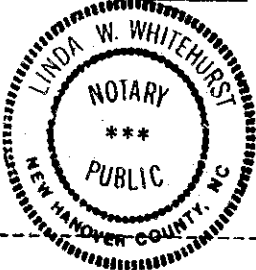
BY: *R. P. Tucker*
President



[Signature]
Secretary

NORTH CAROLINA
NEW HANOVER COUNTY

I, Linda W. Whitehurst, a Notary Public of the County and State aforesaid, certify that Joseph G. Johnson personally came before me this day and acknowledged that he is Secretary of RISING 3, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary. Witness my hand and official stamp or seal, this the 9th day of September, 1986.



Linda W. Whitehurst
Notary Public

My commission expires: 10-25-89

NORTH CAROLINA
NEW HANOVER COUNTY

The foregoing certificate of Linda W. Whitehurst, a Notary Public is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Rebecca P. Tucker Register of Deeds for New Hanover County

BY: *Linda P. Alton* Deputy/~~Assistant~~-Register of Deeds

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BY-LAWS
OF
BAYWOOD ASSOCIATION

ARTICLE I
NAME AND LOCATION

The name of the corporation is Baywood Association, hereinafter referred to as the "Association". The principal office of the corporation shall be located at 4852 Randall Drive, Wilmington, North Carolina 28403 but meetings of members and directors may be held at such places within the State of North Carolina, County of New Hanover, as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

SECTION 1. "Association" shall mean and refer to Baywood Association, its successors and assigns.

SECTION 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions.

SECTION 3. "Common Area" shall mean all that real property owned by the Association for the common use and enjoyment of the Owners and all that real property over which any of the lot owners in Baywood Subdivision have easements for ingress and egress, drainage of surface water, and installation and maintenance of any water supply system and sewage disposal system.

SECTION 4. "Lot" shall mean and refer to any plot of land shown on any recorded subdivision map of the Properties with the exception of any Common Area.

SECTION 5. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 6. "Declarant" shall mean and refer to THE RISING 3, INC., a North Carolina Corporation of New Hanover County, North Carolina, and assigns if such assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

SECTION 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Register of Deeds of New Hanover County, North Carolina.

SECTION 8. "Member" shall mean and refer to those persons entitled

to membership as provided in the Declaration.

ARTICLE III
MEETING OF MEMBERS

SECTION 1. ANNUAL MEETINGS. The annual meeting of members shall be held in each year commencing in 1986 provided, however, that the initial annual membership meeting will not be held until the earlier of (1) the sale by Declarant of all lots in the subdivision, or (2) notice by the Declarant. If neither (1) or (2) has occurred by the first Friday in December 1985, the first Board of Directors will notify all members that such initial meeting has been postponed, and that it will be rescheduled at a later date. If the said first annual meeting is rescheduled the first directors and any officers will hold office until the initial annual meeting.

Annual meetings will be held on March 1st unless the same is a legal holiday, in which event, the meeting will be held the same hour on the first day following which is not a legal holiday. Meetings of the Association membership shall be held at Baywood Subdivision, North Carolina, or at such other place as may be stated in the notice.

SECTION 2. SPECIAL MEETINGS. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote two-thirds (2/3) of all of the votes of the Class A Membership.

SECTION 3. NOTICE OF MEETING. Written notice of each meeting of the members shall be given, by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting the purpose of the meeting.

SECTION 4. QUORUM. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, two-thirds (2/3) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration of these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

SECTION 5. PROXIES. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the number of his Lot.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

SECTION 1. NUMBER. All owners of lots in the Baywood Sub-division shall be directors of the Association. If any person, entity, or corporation owns more than one lot, that person, entity, or corporation shall have the vote of one directorship for each lot owned.

SECTION 2. REMOVAL FROM OFFICE. Membership in the Association and right to a directorship run with the ownership of any lot, and therefore, if any owner sells his or her lot, they lose the right to membership in the association and the right to be a director thereof.

SECTION 3. COMPENSATION. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

SECTION 4. ACTION TAKEN WITHOUT A MEETING. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V

MEETING OF DIRECTORS

SECTION 1. REGULAR MEETINGS. Regular meetings of the Board of Directors shall be held bi-annually at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

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

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

ARTICLE VI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

SECTION 1. POWERS. The Board of Directors shall have power to:

A. adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

B. suspend the voting rights of a member during any period in which such member shall be in default of the payment of any assessment levied by the association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty days for infraction of published rules and regulations;

C. exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

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

SECTION 2. DUTIES. It shall be the duty of the Board of Directors to:

A. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by two-thirds (2/3) of the Class A members who are entitled to vote;

B. supervise all officers, agents and employees of this Association and to see that their duties are properly performed;

C. as more fully provided in the Declaration, to:

(1) fix the amount of any assessment necessary against each Lot

(2) send written notice of any required assessment to every Owner subject thereto at least thirty (30) days in advance of the required payment date; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

D. issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

E. cause the Common Area, including but not limited to, the road for ingress and egress and the easements for water supply and sewage disposal for the lots in the subdivision to be maintained.

ARTICLE VII
OFFICERS AND THEIR DUTIES

SECTION 1. ENUMERATION OF OFFICES. The officers of this Association shall be a president and vice president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

SECTION 2. ELECTION OF OFFICERS. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

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

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

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

SECTION 6. VACANCIES. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

SECTION 7. MULTIPLE OFFICES. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of the Article.

SECTION 8. DUTIES. The duties of the officers are as follows:

PRESIDENT

A. The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, and shall execute all promissory notes of the Association.

VICE PRESIDENT

B. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

SECRETARY

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

TREASURER

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

ARTICLE VIII
BOOKS AND RECORDS

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

ARTICLE IX
ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association any special assessment which is necessary for the maintenance of the road, water supply system and sewage disposal system, among other things, which obligation is secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of fifteen

(150) percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same lien or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees for any such action shall be added to the amount of the assessment. No owner shall waive or otherwise escape liability for any special assessment provided for herein by the nonuse of the Common Area or abandonment of his lot.

**ARTICLE X
CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: Baywood Association, Inc., a North Carolina Non-Profit Corporation.

**ARTICLE XI
AMENDMENTS**

SECTION 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

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


**ARTICLE XII
MISCELLANEOUS**

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


IN WITNESS WHEREOF, we, being all of the directors of the Baywood Association, have hereunto set our hands and seals this 9th day of September, 1986.



R. PATRICK ELLETT



JOSEPH G. JOHNSON



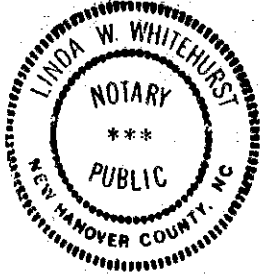
RICHARD L. HINNANT

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Linda W. Whitehurst, a Notary Public in and for the State and County aforesaid, do hereby certify that R. PATRICK ELLET JOSEPH G. JOHNSON, and RICHARD L. HINNANT, each personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

WITNESS my hand and Notarial Seal, this 9th day of September, 1986.



Linda W. Whitehurst
Notary Public

My Commission Expires; 10-25-89

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

The foregoing certificate of Linda W. Whitehurst, a Notary Public, is hereby certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

REBECCA P. TUCKER REGISTER OF DEEDS FOR NEW HANOVER COUNT

BY: Linda P. Alton Deputy/Assistant-Register of Deeds