

Commonwealth OF Virginia



State Corporation Commission

I Certify the Following from the Records of the Commission:

POTOMIA COMMUNITY ASSOCIATION, INC. is a corporation existing under and by virtue of the laws of Virginia, and is in good standing.

The date of incorporation is December 29, 2003.

Nothing more is hereby certified.



*Signed and Sealed at Richmond on this Date:
November 12, 2010*

Joel H. Peck

Joel H. Peck, Clerk of the Commission

ARTICLES OF INCORPORATION
FOR
POTOMIA COMMUNITY ASSOCIATION, INC.

This is to certify that I, the undersigned, do hereby establish a corporation under the provisions of the Virginia Non-Stock Corporation Act, Chapter 10 of Title 13.1 of the Code of Virginia, for the purpose and in the name hereafter stated and to that end set forth the following:

ARTICLE I
NAME

The name of this corporation is **POTOMIA COMMUNITY ASSOCIATION, INC.**, (the "**Association**") which is hereby incorporated as a nonstock corporation pursuant to Chapter 10 of Title 13.1 of the Code of Virginia (1950) as amended (the "**Act**"). The duration of the corporation is perpetual. The corporation shall be a community association, as that term is defined in the Act.

ARTICLE 2
INTERPRETIVE PROVISIONS

Article 2.1. Definitions. Terms used herein without definition shall have the meanings specified for such terms in Article 13.1-803 of the Act. Capitalized terms used herein or in the By-Laws shall have the meanings specified for such terms in the Declaration of Covenants, Conditions and Restrictions for the Potomia subdivision made by Elysian Land, LLC, a Virginia limited liability company and recorded, or to be recorded, in the Clerk's Office of the Circuit Court of the County of Loudoun, Virginia.

Article 2.2. Construction of Governing Documents.

(a) **Captions.** The captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the document in which used or any provision thereof.

(b) **Pronouns.** The use of the masculine gender shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires.

(c) **Severability.** Each provision of any Governing Document is severable from every other provision and the invalidity of any one or more

provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any provision of the Governing Documents is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and, to the extent practicable, the provision shall be enforced.

(d) **Interpretation.** If there is any conflict between the Governing Documents, the Declaration shall control, except as to matters of compliance with the Act, then the Articles of Incorporation shall control. Particular provisions shall control general provisions, except that a construction consistent with the Act shall in all cases control over any construction inconsistent therewith. The provisions of the By-Laws shall control over the provisions of any rule, regulation or other resolution adopted pursuant to any of the Governing Documents.

(e) **Complementarity of Governing Documents and Incorporation by Reference.** The Governing Documents shall be construed together and shall be deemed to incorporate one another. Any requirements as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others. Any provision of any Association Document referenced in any other Association Document with the intent to incorporate the provisions of the Association Document into the other Association Document, shall be deemed incorporated therein.

ARTICLE 3 **PURPOSE**

The Association does not contemplate pecuniary gain or profit to its Members. The purposes for which the Association is organized are to:

- (a) provide for the upkeep and maintenance of the Common Area and, to the extent provided in the Governing Documents, of the Lots;
- (b) establish and administer the architectural standards governing the Property;
- (c) exercise all powers and perform all duties and obligations of the Association as set forth in the Governing Documents with respect to all or any portion of the Property; and
- (d) exercise the powers now or hereafter conferred by law on Virginia nonstock corporations necessary or desirable to accomplish the above purposes.

ARTICLE 4

MEMBERSHIP AND VOTING

Article 4.1. Membership. Members of the Association shall at all times be, and be limited to, the Declarant and the Persons who constitute Owners of the Lots. If more than one Person owns a Lot, then all of the Persons who own such Lot shall collectively constitute one owner and be one Member of the Association. Each such Person is entitled to attend all meetings of the Association. Membership in the Association is mandatory and terminates automatically with termination of ownership of a Lot.

Article 4.2. Class of Members; Voting Rights.

The Association shall have three (3) classes of voting Members, as follows:

(a) **Class A:** With the exception of the Developer (until expiration of the Class C Memberships as provided below), every person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who is an Owner of a Commercial Lot containing a Commercial Unit which is part of the Community shall be a Class A Member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. Ownership of a Commercial Lot shall entitle each Owner holding the interest required for Class A Membership to cast one (1) vote; provided, however, that if more than one (1) person or entity are the Owners of a Commercial Lot, the vote for such Commercial Lot shall be exercised as those persons or entities themselves determine and advise the Secretary, but in no event shall more than one (1) vote be cast with respect to any Commercial Lot. Any Owner that leases a Commercial Unit may, in the lease or other written instrument, assign the voting right appurtenant to such Commercial Lot to the Owner's lessee, provided that a copy of such instrument is furnished to the Association.

(b) **Class B:** With the exception of the Developer (until expiration of the Class C Memberships as provided below), every person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who is an Owner of a Residential Lot containing a Living Unit which is part of the Community shall be a Class B Member of the Association, provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Class B Member solely on account of such interest. Ownership of a Residential Lot shall entitle each Owner holding the interest required for Class A Membership to cast one (1) vote; provided, however, that if more than one (1) person or entity are the Owners of a Residential Lot, the

vote for such Residential Lot shall be exercised as those persons or entities themselves determine and advise the Secretary, but in no event shall more than one (1) vote be cast with respect to any Residential Lot. Any Owner that leases a Living Unit may, in the lease or other written instrument, assign the voting right appurtenant to such Residential Lot to the Owner's lessee, provided that a copy of such instrument is furnished to the Association.

(c) **Class C:** The Class C Member shall be the Developer, its nominee or nominees and shall include every person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who shall obtain any Class C Membership by specific assignment in writing from the Developer. The Class C Member shall be entitled initially to three (3) votes for each Lot within the Property. Class C Membership shall terminate and become converted to Class A or B Membership as the case may be upon the happening of the earlier of the following (in each case the "**Developer Control Period**");

- i. When seventy five percent (75%) of the Residential Lots are deeded to Owners other than the Developer or Participating Builders;
- ii. December 31, 2013; or
- iii. Such earlier time as Developer may elect in its sole discretion.

(d) **Revival of Class C Membership.** Notwithstanding the foregoing, after the Developer Control Period has ended, in the event the Developer annexes pursuant to Article 2 of the Declaration any additional properties, the Class C Membership shall be revised with respect to all Lots owned by the Developer on the annexed property. Class C Membership shall cease and be converted to Class A or B Membership, as the case may be, on the happening of either of the following events, whichever occurs first:

- i. When seventy five percent (75%) of the Residential Lots (including those in the annexed property) are deeded to Owners other than the Developer or Participating Builders, or
- ii. Seven (7) years from the date of recordation of the final Deed of Dedication or Supplemental Declaration for the last portion of such annexed property. Any vote of the Members shall be taken without regard to class of Membership except in those instances requiring the affirmative vote or approval of each class of Membership in accordance with this Declaration and the Articles of Incorporation or By-Laws of the Association.

(e) **Additional Provisions Governing Voting.** Additional provisions governing voting rights and procedures shall be as set forth in the By-Laws.

Article 4.3. Required Vote. A vote of at least a sixty six and two thirds percent (66 2/3%) vote of the Members (and not each individual class of Member) shall be necessary to carry and approve any vote by the Membership, including but not limited to any amendment to these Articles, the Declaration or the By-Laws or to dissolve the Association. The Association shall not take any action in violation of the provisions of the Declaration.

ARTICLE 5 **BOARD OF DIRECTORS**

Article 5.1. Number. The affairs of the Association shall be managed by a Board of Directors initially consisting of an uneven number of not less than three (3) nor more than five (5) natural persons (each a "**Director**"). The names of the initial Directors are set forth in the Articles of Incorporation. Commencing with the first annual meeting of the Association, the Board of Directors shall consist of an uneven number of not less than three (3) nor more than five (5) Directors who shall be appointed by the Developer or elected by the Members in accordance with these By-Laws. Prior to expiration of the Developer's Rights and Obligations Period as provided in the Declaration, the number of Directors shall be determined from time to time by the Developer; thereafter, the number of Directors shall be determined by a vote of the Members at any annual or special meeting of Members and the number of Directors may be changed by a vote of the Members at any subsequent annual or special meeting of the Members; provided, however, that (a) the limitations of this Article shall continue to apply; and (b) no such change shall operate to curtail or extend the term of any incumbent Director. After expiration of the Developer's Rights and Obligations period, a majority of the Members of the Board of Directors shall be Residents.

Article 5.2 Initial Directors. The initial Directors of the Association are:

<u>Name</u>	<u>Address</u>
Robert Baxter	1927 Isaac Newton Square East, Suite 180 Reston, Virginia 20190
Rick Stark	1925 Isaac Newton Square East, Suite 180 Reston, Virginia 20190
Peter Kalaris	116-S Edwards Ferry Road, N.E. Leesburg, Virginia 20176

Article 5.3 Developer's Representation on Board of Directors. All Members of the initial Board of Directors appointed by the Developer shall serve until replaced as provided herein. At the first annual meeting of the Association after twenty-five percent (25%) of the Living Units planned to be included within the Community have been initially occupied, one (1) member of the Board of Directors shall be elected by the Class A and Class B Members in the aggregate (and not one member per Class) to replace a Developer appointee. At the first annual meeting of the Association after sixty percent (60%) of the Living Units planned to be included within the Community have been initially occupied, one (1) additional member of the Board of Directors shall be elected by the Class A and Class B Members in the aggregate (and not one member per Class) to replace a Developer appointee. At the first annual meeting of the Association after lapse of all of the Class C Memberships as herein provided for or, if sooner, at the first annual meeting of the Association after expiration of ten (10) years following the date of the initial recordation of the Declaration, the Class A and Class B Members Owners shall elect a majority of the members of the Board of Directors. The Developer's right to appoint members to the Board of Directors, not otherwise elected by the Class A and Class B Members, shall continue so long as Developer's Rights and Obligations are in effect. Except as expressly set forth in this Article, nothing herein shall otherwise be construed as limiting the Developer's right to vote as a Class B Member of the Association, after lapse of the Class C Memberships, on any matter. Notwithstanding anything herein contained to the contrary, the Developer shall always, for so long as the Developer has the power of appointment of more than one member of the Board of Directors, designate at least one member of the Board of Directors from a representative nominated by the Owners of the Commercial Lots.

Article 5.4 Term of Office. Except for Members of the Board of Directors appointed by the Developer, who shall serve until removed and/or replaced by the Developer or until replaced by a Director elected by the non-Developer Owners as provided herein, the term of office of each Member of the Board of Directors shall be two (2) years. In the alternative, the Members may resolve at any annual or special meeting following the expiration of the Developer's Rights and Obligations period, to establish the term of office for all Directors to be one (1) year, or to establish staggered terms for the Directors of from one (1) to three (3) years. Any change in the number of Directors or term of office of Directors shall not act to extend or curtail the term of office of any incumbent Director. Directors shall hold office until their successors have been elected and hold their first regular meeting.

Article 5.5 Removal. Except with respect to Directors appointed by the Developer, any Director may be removed from the Board, with or without cause, by a majority vote of all the Members of the Association, and, in the event of the death, resignation or removal of a Director, a successor shall be selected by the remaining Members of the Board who shall serve for the unexpired term of such Director's

predecessor. Members of the Board of Directors appointed by the Developer shall serve at the pleasure of and may be removed and/or replaced, with or without cause, by the Developer.

Section 5.6 Compensation. No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of such Director's duties.

Section 5.7. 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 and by filing such approval with the minutes of the proceedings of the Board of Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE 6

INITIAL REGISTERED OFFICE

The Association's initial registered office which is identical to the business office of the initial registered agent is 1925 Isaac Newton Square East, Suite 180, Reston, Virginia 20190. The registered office is physically located in the county of Fairfax, Virginia. The name of the registered agent of the Association is Robert Baxter, whose address is 1925 Isaac Newton Square East, Suite 180, Reston, Virginia 20190. The resident agent is a resident of Fairfax County, Virginia and an initial director of the Association.

ARTICLE 7

AMENDMENT

These Articles may not be amended unless the amendment is adopted by a vote of at least sixty-six and two-thirds percent (66 2/3%) of all Members in the aggregate. No amendment to these Articles may diminish or impair the rights of the Declarant without the affirmative vote of the Class C Member, if any. The Association may not make any amendment in violation of the Declaration.

ARTICLE 8
DISSOLUTION

The Association may not be dissolved unless the resolution to dissolve is adopted by Members entitled to cast at least eighty percent of the total number of votes, including the affirmative vote of the Class C Member, if any. The Association may not be dissolved or terminated without the express consent and approval of the Board of Supervisors of Loudoun County, Virginia.

ARTICLE 9
LIMIT ON LIABILITY

In every instance in which the Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation or its Members, the directors and officers of the Association shall not be liable to the Association or its Members.

ARTICLE 10
INDEMNIFICATION

The Association shall indemnify the directors, officers and Members of the Covenants Committee (in their agency capacity) to the extent that it is contemplated a nonstock corporation may indemnify its directors, officers and employees pursuant to Articles 13.1-875 through 13.1-883, inclusive, of the Act; provided, however, that before the Association uses association funds for indemnification, all insurance proceeds must be obtained and applied toward such indemnification.

INCORPORATOR:



Jan A. Zachariasse

Dated: 12-3-, 2003

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

December 29, 2003

The State Corporation Commission has found the accompanying articles submitted on behalf of

POTOMIA COMMUNITY ASSOCIATION, INC.

to comply with the requirements of law, and confirms payment of all required fees.

Therefore, it is ORDERED that this

CERTIFICATE OF INCORPORATION

be issued and admitted to record with the articles of incorporation in the Office of the Clerk of the Commission, effective December 29, 2003.

The corporation is granted the authority conferred on it by law in accordance with the articles, subject to the conditions and restrictions imposed by law.

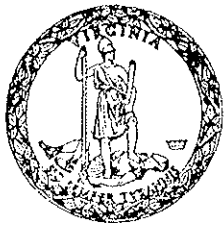
STATE CORPORATION COMMISSION

By

A handwritten signature in black ink, appearing to read "T.V. Morrison". The signature is written in a cursive, flowing style with a large, prominent "M".

Commissioner

Commonwealth OF Virginia



State Corporation Commission

I Certify the Following from the Records of the Commission:

The foregoing is a true copy of all documents constituting the charter of POTOMIA COMMUNITY ASSOCIATION, INC. on file in the Clerk's Office of the Commission.

Nothing more is hereby certified.



*Signed and Sealed at Richmond on this Date:
November 12, 2010*

Joel H. Peck

Joel H. Peck, Clerk of the Commission