

**CAPITAL CONNECTION, INC.**

417 E. Virginia Street, Suite 1 • Tallahassee, Florida 32301  
(850) 224-8870 • 1-800-342-8062 • Fax (850) 222-1222

**PO10000017761**

Village Oaks Realty -  
II, Inc.

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-02/22/01--01021--016  
\*\*\*\*\*35.00 \*\*\*\*\*35.00

- \_\_\_ Art of Inc. File Amend
- \_\_\_ LTD Partnership File
- \_\_\_ Foreign Corp. File
- \_\_\_ L.C. File
- \_\_\_ Fictitious Name File
- \_\_\_ Trade/Service Mark
- \_\_\_ Merger File
- ☒ Art. of Amend. File
- \_\_\_ RA Resignation
- \_\_\_ Dissolution / Withdrawal
- \_\_\_ Annual Report / Reinstatement
- \_\_\_ Cert. Copy
- ☒ Photo Copy
- \_\_\_ Certificate of Good Standing
- \_\_\_ Certificate of Status
- \_\_\_ Certificate of Fictitious Name
- \_\_\_ Corp Record Search
- \_\_\_ Officer Search
- \_\_\_ Fictitious Search
- \_\_\_ Fictitious Owner Search
- \_\_\_ Vehicle Search
- \_\_\_ Driving Record
- \_\_\_ UCC 1 or 3 File
- \_\_\_ UCC 11 Search
- \_\_\_ UCC 11 Retrieval
- \_\_\_ Courier

FILED  
01 FEB 26 PM 3:02  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

X00789,00563,02673,00672  
Signature

Requested by: BO 2/22/01 9:45  
Name Date Time

Walk-In \_\_\_\_\_ Will Pick Up \_\_\_\_\_

RECEIVED  
01 FEB 22 AM 10:10  
DIVISION OF CORPORATIONS



FLORIDA DEPARTMENT OF STATE

Katherine Harris  
Secretary of State

February 22, 2001

Capital Connection, Inc.  
417 E. Virginia St.  
Suite 1  
Tallahassee, FL 32301

SUBJECT: VILLAGE OAKS REALTY-II, INC.  
Ref. Number: P01000017761

We have received your document for VILLAGE OAKS REALTY-II, INC. and your check(s) totaling \$35.00. However, the enclosed document has not been filed and is being returned for the following correction(s):

The date of adoption of each amendment must be included in the document.

The amendment must be adopted in one of the following manners:

**(1) If an amendment was approved by the shareholders, one of the following statements must be contained in the document.**

(a) A statement that the number of votes cast for the amendment by the shareholders was sufficient for approval, -or-

(b) If more than one voting group was entitled to vote on the amendment, a statement designating each voting group entitled to vote separately on the amendment and a statement that the number of votes cast for the amendment by the shareholders in each voting group was sufficient for approval by that voting group.

**(2) If an amendment was adopted by the incorporators or board of directors without shareholder action.**

(a) A statement that the amendment was adopted by either the incorporators or board of directors and that shareholder action was not required.

If you have any questions concerning the filing of your document, please call (850) 487-6907.

Annette Ramsey  
Corporate Specialist

Letter Number: 101A00011226

*Corrected*

RECEIVED  
01 FEB 26 AM 9:53  
DIVISION OF CORPORATIONS

**FIRST AMENDMENT TO  
ARTICLES OF INCORPORATION  
OF  
VILLAGE OAKS REALTY-II, INC.**

01 FEB 26 PM 3:02  
FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**WHEREAS**, the original Articles of Incorporation for Village Oaks Realty-II, Inc. (the "Corporation") were filed with the Secretary of State in Tallahassee, Florida on February 16, 2001, Document No. P01000017761; and

**WHEREAS**, the corporation holds an interest in certain improved real property commonly known as Village Oaks Apartments d/b/a Courtyards of Miami Lakes which is located at 6431 Cow Pen Road, Miami Lakes, Florida 33014; and

**WHEREAS**, the corporation hereto wishes to amend the Articles of Incorporation.

**NOW THEREFORE**, the corporation hereto covenants and agrees as follows:

- 1) The Amendment contained herein shall be adopted as of February 17, 2001.
- 2) The Amendment contained herein was adopted by the Incorporator and by unanimous vote by the Board of Directors and the shareholders.
- 3) Article II is amended to read as follows:

**Article II**

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of Florida other than the banking business, the trust company business, or the practice of a profession permitted to be incorporated by the Florida Corporations Code.

Notwithstanding the foregoing, for so long as Village Oaks Associates, Ltd., a Florida limited partnership (the "Partnership") has any liability under that certain loan being made or arranged by UBS Warburg Real Estate Investments, Inc., or an affiliate, successor or assign ("Lender"), in the original principal amount of approximately \$21,800,000.00 (the "Loan"), the

purpose of the Corporation shall be limited to (a) serving as a general partner of the Partnership, and owning at least a 0.5% interest in the Partnership (b) exercising the rights, and performing the duties and obligations of a general partner of the Partnership, as provided for under the Partnership's, Village Oaks Associates, Ltd. Limited Partnership Agreement, including, without limitation, causing the Partnership to obtain the Loan and perform its obligations under the documents evidencing and securing the Loan (the "Loan Documents"), and (c) transacting any and all lawful business for which a corporation may be organized under the laws of Florida that is incident, necessary, and appropriate to accomplishing the foregoing. The Corporation shall be prohibited from incurring indebtedness of any kind, other than accounts payable incurred in the ordinary course of business and except in its capacity as a general partner of the Partnership.

- 4) Article VII is amended to include the following language:

The liability of the directors of the Corporation for monetary damages shall be eliminated to the fullest extent permissible under Florida law.

- 5) Article XII is amended to include the following language:

Notwithstanding any provision hereof to the contrary, any indemnification claim against the Corporation arising under these Articles of Incorporation or the laws of the State of Florida shall be fully subordinate to any obligations of the Corporation to Lender arising under the Loan Documents, and shall only constitute a claim against the Corporation to the extent of, and shall be paid by the Corporation in monthly installments only from, the excess of net operating income for any month over all amounts then due Lender under the Loan Documents.

- 6) The Articles of Incorporation will be amended by adding the following Section XIV:

#### Article XIV

The following provisions regulate the internal affairs of the Corporation:

A. For so long as the Partnership remains liable for any indebtedness under the Loan, the unanimous consent of the Corporation's Board of Directors (including the Independent Director, as defined below) is required with respect to any election by the Corporation or the Partnership to (i) file, or consent to the filing of, a bankruptcy or insolvency petition for the Corporation or the Partnership, or to otherwise institute insolvency proceedings or otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally; (ii) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any other similar official for the Corporation or the Partnership; (iii) make any assignment for the benefit of creditors of the Corporation or the Partnership; or (iv) take any other action in furtherance of any of the foregoing.

B. For so long as the Partnership remains liable for any indebtedness under the Loan, the Corporation shall not allow the Partnership to do any of the following:

1. engage in any business or activity other than the ownership, operation, and maintenance of the real property which serves as security for the Loan (the "Property"), and activities incidental thereto;
2. acquire or own any material assets other than (i) the Property, and (ii) such incidental personal property as may be necessary for the operation of the Property;
3. merge into or consolidate with any person or entity or dissolve, terminate or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure, without in each case Lender's consent;
4. fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the State of Florida, or without the prior written consent of Lender, amend, modify, terminate, or fail to comply with the provisions of the Partnership's limited partnership agreement;
5. own any subsidiary or make any investment in, any person or entity without the consent of Lender;
6. commingle its assets with the assets of any of its general partners, affiliates, principals, or any other person or entity, nor fail to hold all of its assets in its own name;
7. incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the Loan, except for trade payables in the ordinary course of its business of owning and operating the Property, provided that such debt is not evidenced by a note and is paid when due;
8. become insolvent and fail to pay its debts and liabilities from its assets as the same shall become due;
9. fail to maintain its records, books of account and bank accounts separate and apart from those of the partners, principals, and affiliates of the Partnership, the affiliates of a partner or principal of the Partnership, or any other person or entity;
10. enter into any contract or agreement with any general partner, principal, or affiliate of the Partnership, or any guarantor or indemnitor under the Loan Documents, or any member, general partner, principal, or affiliate thereof, except upon terms and conditions that are intrinsically fair, commercially reasonable, and substantially similar to those that would be available on an arms-length basis with third parties other than any general partner, principal, or affiliate of the Partnership, or any such guarantor or indemnitor, or any member, general partner, principal or affiliate thereof;
11. seek the dissolution or winding up in whole, or in part, of the Partnership;

12. fail to correct any known misunderstandings regarding the separate identity of the Partnership;

13. hold itself out to be responsible for the debts of another person or entity;

14. make any loans or advances to any third party, including any general partner, principal, or affiliate of the Partnership, or any member, general partner, principal or affiliate thereof, nor buy or hold evidence of indebtedness issued by any other person or entity (other than cash and investment-grade securities);

15. fail to file its own tax returns, or file a consolidated federal income tax return with any other entity;

16. fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name in order not (i) to mislead others as to the identity with which such other party is transacting business, or (ii) to suggest that the Partnership is responsible for the debts of any third party (including any general partner, principal, or affiliate of the Partnership, or any member, general partner, principal, or affiliate thereof);

17. fail to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

18. share any common logo with or hold itself out as or be considered as a department or division of (i) any general partner, principal, or affiliate of the Partnership, (ii) any affiliate of a general partner, principal, or affiliate of the Partnership, or (iii) any other person or entity;

19. fail to maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other person or entity;

20. have its assets listed on the financial statement of any other entity;

21. fail to observe all applicable organizational formalities;

22. fail to pay the salaries of its own employees (if any) from its own funds;

23. fail to maintain a sufficient number of employees in light of its contemplated business operations;

24. fail to allocate fairly and reasonably any overhead expenses that are shared with an affiliate, including paying for office space and services performed by any employee of an affiliate;

25. fail to use separate stationery, invoices, and checks bearing its own name;

26. acquire the obligations or securities of its affiliates or owners, including partners, members or shareholders, as appropriate;

27. fail to pay its own liabilities and expenses only out of its own funds; and/or

28. pledge its assets for the benefit of any other person or entity.

C. For so long as the Partnership remains liable for any indebtedness under the Loan, the Corporation shall have at least one Independent Director. For purposes hereof, an "Independent Director" is someone who is not, at the time of initial appointment, or at any time while serving as a director of the Corporation, and has not been at any time during the preceding five years: (i) a stockholder, director (with the exception of serving as the Independent Director of the Corporation), officer, employee, partner, attorney, or counsel of the Corporation, the Partnership, or any affiliate of either of them; (b) a customer, supplier, or other person who derives any of its purchases or revenues from its activities with the Corporation, the Partnership, or any affiliate of either of them; (c) a person or other entity controlling or under common control with any such stockholder, partner, customer, supplier, or other person; or (d) a member of the immediate family of any such stockholder, director, officer, employee, partner, customer, supplier, or other person. (As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies, or activities of a person or entity, whether through ownership of voting securities, by contract, or otherwise.)

D. For so long as the Partnership remains liable for any indebtedness under the Loan, the Corporation shall not do any of the following:

1. engage in any business or activity other than as permitted by the second grammatical paragraph of Article II, above;

2. acquire or own any material assets other than its interest in the Partnership, withdraw as a general partner of the Partnership, or otherwise dispose of its interest in the Partnership;

3. merge into or consolidate with any person or entity or dissolve, terminate or liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure, without in each case Lender's consent;

4. fail to preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the State of Florida, or without the prior written consent of Lender, amend, modify, terminate, or fail to comply with the provisions of these Articles of Incorporation or the Corporation's Bylaws;

5. own any subsidiary or make any investment in, any person or entity (except for its interest in the Partnership) without the consent of Lender;

6. commingle its assets with the assets of any of its shareholders, affiliates, principals, or any other person or entity, nor fail to hold all of its assets in its own name;

7. incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than its liability as general partner of the Partnership for the Loan and the Partnership's permitted trade payables incurred in the ordinary course of its business of owning and operating the Property;

8. become insolvent and fail to pay its debts and liabilities from its assets as the same shall become due;

9. fail to maintain its records, books of account and bank accounts separate and apart from those of its shareholders or of the Partnership, or of the partners, principals, and affiliates of the Partnership, the affiliates of a partner or principal of the Partnership, or any other person or entity;

10. enter into any contract or agreement with any shareholders or any partner, principal, or affiliate of the Partnership, or any guarantor or indemnitor under the Loan Documents, or any member, general partner, principal, or affiliate thereof, except upon terms and conditions that are intrinsically fair, commercially reasonable, and substantially similar to those that would be available on an arms-length basis with third parties other than any general partner, principal, or affiliate of the Partnership, or any such guarantor or indemnitor, or any member, general partner, principal or affiliate thereof;

11. seek the dissolution or winding up in whole, or in part, of the Partnership;

12. fail to correct any known misunderstandings regarding the separate identity of the Partnership;

13. hold itself out to be responsible for the debts of another person or entity;

14. make any loans or advances to any third party, including any partner, principal, or affiliate of the Partnership, or any member, general partner, principal or affiliate thereof, nor buy or hold evidence of indebtedness issued by any other person or entity (other than cash and investment-grade securities);

15. fail to file its own tax returns, or file a consolidated federal income tax return with any other entity;

16. fail either to hold itself out to the public as a legal entity separate and distinct from any other entity or person or to conduct its business solely in its own name in order not (i) to mislead others as to the identity with which such other party is transacting business, or (ii) to suggest that the Partnership is responsible for the debts of any third party (including any general partner, principal, or affiliate of the Partnership, or any member, general partner, principal, or affiliate thereof);

19. fail to maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other person or entity;
20. have its assets listed on the financial statement of any other entity;
21. fail to observe all applicable organizational formalities;
22. fail to pay the salaries of its own employees (if any) from its own funds;
23. fail to maintain a sufficient number of employees in light of its contemplated business operations;
24. fail to allocate fairly and reasonably any overhead expenses that are shared with an affiliate, including paying for office space and services performed by any employee of an affiliate;
25. fail to use separate stationery, invoices, and checks bearing its own name;
26. fail to pay its own liabilities and expenses only out of its own funds;
27. allow any transfer of any direct ownership interest in the Corporation such that the transferee owns, in the aggregate with the ownership interests of its affiliates and family members in the Corporation, more than a 49% interest in the Corporation (or such other interest as specified in the Loan Documents or by a rating agency), unless (i) such transfer is conditioned upon the delivery of an acceptable non-consolidation opinion to the holder of the Loan and to any applicable rating agency concerning, as applicable, the Corporation, the new transferee and/or their respective owners, and (ii) the applicable rating agencies confirm that the transfer will not result in a qualification, withdrawal or downgrade of any securities rating;
28. acquire the obligations or securities of its affiliates or owners, including partners, members or shareholders, as appropriate; and/or
29. pledge its assets for the benefit of any other person or entity.

Nothing in this Article XIV shall be construed as limiting or prohibiting a director from exercising his or her duties as a director of the corporation as required by the General Corporation Law of Florida.

VILLAGE OAKS REALTY-II, INC., a  
Florida corporation

By:

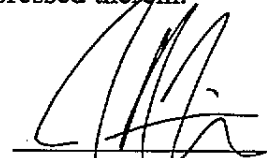
  
Oded T. Meltzer, President

STATE OF FLORIDA       )  
                                  SS:  
COUNTY OF DADE       )

THE FOREGOING INSTRUMENT was acknowledged before me this 21st day of February, 2001, by ODED T. MELTZER, as President of VILLAGE OAKS REALTY-II, INC., a Florida corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification and who X did \_\_\_\_\_ did not take an oath, acknowledging that the above and foregoing is true and correct and that it was executed freely and voluntarily for the purposes expressed therein.



Jonathan A Fine  
My Commission CC797341  
Expires December 17, 2002

  
\_\_\_\_\_  
Notary Public