



A 14829  
Daniel S. Wallace, P.A.

431 N. Grandview Avenue  
Daytona Beach, Florida 32118-3928

904/252-1133 & 904/252-1134  
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June 1, 1999

Florida Department of State  
Division of Corporations  
Post Office Box 6327  
Tallahassee, FL 32314

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\*\*\*\*\*52.50 \*\*\*\*\*52.50

Board Certified  
Civil Trial  
Lawyer

Re: Bayou Plantation, Ltd.

Dear Sir:

Enclosed you will find the original and one copy of a  
CERTIFICATE OF AMENDMENT TO CERTIFICATE OF LIMITED  
PARTNERSHIP OF BAYOU PLANTATION, LTD.

My check in the amount of \$52.50 is enclosed as your  
filing fee.

Board Certified  
Wills, Trusts, and  
Estates Lawyer

Please file this amendment and return your  
acknowledgement to my office.

Thank you.

Sincerely,

*Dan*

DANIEL S. WALLACE

DSW:vb  
Enclosure

A14829

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SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
59 JUN -7 AM 11:39

Certified Circuit  
& County Court  
Mediator

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**CERTIFICATE OF AMENDMENT  
TO  
CERTIFICATE OF LIMITED PARTNERSHIP  
OF**

BAYOU PLANTATION, LTD.

(Insert name currently on file with Florida Dept. of State)

Pursuant to the provisions of section 620.109, Florida Statutes, this Florida limited partnership, whose certificate was filed with the Florida Dept. of State on July 6, 1983, adopts the following certificate of amendment to its certificate of limited partnership.

**FIRST:** Amendment(s): (indicate article number(s) being amended, added, or deleted)


Paragraphs 4 and 12 of the Limited Partnership Agreement of Bayou Plantation, Ltd. are amended to delete James M. Smoak, Jr. as a general partner. Pursuant to that certain SUMMARY FINAL JUDGMENT FOR PLAINTIFF (in the Circuit Court, Seventh Judicial Circuit, in and for Volusia County, Florida, Case No. 97-31264-CICI, Division 31) the remaining and only partners and their ownership interests are as follows:  
(a) Louis L. Huntley, general partner, 51%; (b) Phoenix 7, Inc., limited partner, 49%.

A copy of said SUMMARY FINAL JUDGMENT FOR PLAINTIFF is attached hereto and incorporated by reference herein as Exhibit A.

**SECOND:** This certificate of amendment shall be effective at the time of its filing with the Florida Department of State.

**THIRD:** Signature(s)

Signature of current general partner:

  
\_\_\_\_\_  
LOUIS L. HUNTLEY

Signature(s) of new general partner(s), if applicable: not applicable

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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SECTION 601.01  
DIVISION OF STATE  
REGISTRATIONS

EXHIBIT A

IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA.

CASE NO.: 97-31264 CICI  
DIVISION: 31

LOUIS L. HUNTLEY, individually,  
etc., et al,

Plaintiffs,

vs.

JAMES M. SMOAK, JR., individually;  
et al,

Defendants.

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DIVISION OF RECORDS  
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SUMMARY FINAL JUDGMENT FOR PLAINTIFFS

This action was heard before the Court on PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT. Due service of process was had on all Defendants, and proper notice of hearing was served by Plaintiffs. After considering the affidavits and pleadings filed with the Court and arguments presented,

IT IS ADJUDGED that:

1. That the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

2. The Warranty Deed (recorded in Official Records Book 2459, Page 1774, public records of Volusia County, Florida) and Mortgage Deed (recorded in Official Records Book 3816, Page 1859, public records of Volusia County, Florida) fail to express the true

agreement and intention of the parties and are hereby reformed to demonstrate and express the status that the parties intended to create. The legal descriptions are hereby reformed as follows and said reformation relates back to, and takes effect from, the dates of original execution:

Please see Exhibit "A" which is attached hereto and incorporated herein by reference.

3. BAYOU PLANTATION, LTD. is the sole fee simple title holder of the subject realty and that said deed is valid and enforceable and is not a forgery.

4. LOUIS L. HUNTLEY is the sole owner and holder of said note and mortgage and these obligations are valid and enforceable and constitute a first mortgage lien on the subject realty.

5. The Limited Partnership Agreement of Bayou Plantation, Ltd. (recorded in Official Records Book 2469, Page 1156, public records of Volusia County, Florida) is valid and enforceable and is not a forgery and the remaining and only partners and their ownership interests are as follows:

- a. Louis L. Huntley, general partner 51%
- b. Phoenix 7, Inc., limited partner 49%

6. The Assignment (recorded in Official Records Book 3794, Page 0622, public records of Volusia County, Florida) in favor of LAWRENCE E. BENNETT is null and void and cancelled of record.

7. PHOENIX 7, INC., a dissolved Florida corporation; JAMES M. SMOAK, JR., individually; VALERIE H. MANUEL, as bankruptcy trustee for JAMES M. SMOAK, JR.; KATHLEEN RUTH McFARLAND f/k/a KATHLEEN M. BENNETT, individually and as director and trustee of Phoenix 7, Inc.; a dissolved Florida corporation; LAWRENCE E. BENNETT, individually and as director and trustee of Phoenix 7, Inc., a dissolved Florida corporation; ALEXANDER SMITH, as bankruptcy trustee for Lawrence E. Bennett; THE UNITED STATES OF AMERICA; COMMERCIAL CREDIT CORPORATION, a Maryland corporation; H AND J DEVELOPMENT COMPANY a/k/a H AND J DEVELOPMENT COMPANY, INC., a Florida corporation; GILES ELECTRIC COMPANY a/k/a GILES ELECTRIC COMPANY, INC., a Florida corporation; BARNETT BANK OF VOLUSIA COUNTY, a merged Florida banking corporation; BARNETT BANK, N.A., a national banking corporation; DAVID R. JOHNSON d/b/a HALIFAX BLUE PRINT COMPANY, individually; C. S. GARDNER AND ASSOCIATES, INCORPORATED a/k/a C.S. GARDNER & ASSOCIATES, INC., a Florida corporation; MARTIN PAVING COMPANY, a Florida corporation; THE DUNN CORPORATION, a Florida corporation; BOMAR CONSTRUCTION, INC., a Florida corporation; BAY-WALSH PROPERTIES (FLORIDA), INC. d/b/a NOVA VILLAGE MARKET PARTNERSHIP, a Florida corporation; BRUNO SOCHA, individually; JOAN SOCHA, individually; FINLEY F. GIBSON, III d/b/a PRESTIGE CARPET OF DAYTONA, individually; BARNETT RECOVERY CORPORATION, an inactive merged Florida corporation; ROBERT K. BIERI, as director and trustee of Barnett Recovery Corporation, inactive and merged with Barnett Technologies;

Inc., a dissolved Florida corporation; JOHN PAVEY, as director and trustee of Barnett Recovery Corporation, inactive and merged with Barnett Technologies, Inc., a dissolved Florida corporation; MEHDI GHOMESHI, as director and trustee of Barnett Recovery Corporation, inactive and merged with Barnett Technologies, Inc., a dissolved Florida corporation; BARNETT TECHNOLOGIES, INC., a dissolved Florida corporation; JEROME MAHER, as director and trustee of Barnett Technologies, Inc., a dissolved Florida corporation; PAUL DAVIS SYSTEMS, INC. OF DAYTONA, a Florida corporation; STATE OF FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY; FLORIDA MINING & MATERIALS CONCRETE CORP., an inactive merged Florida corporation; EDGAR J. MARSTON, III, as director and trustee of Florida Mining & Materials Concrete Corp., inactive and merged with Southdown, Inc., a Louisiana corporation; DENNIS M. THIES, as director and trustee of Florida Mining & Materials Concrete Corp., inactive and merged with Southdown, Inc., a Louisiana corporation; JAMES L. PERSKY, as director and trustee of Florida Mining & Materials Concrete Corp., inactive and merged with Southdown, Inc., a Louisiana corporation; SOUTHDOWN, INC., a Louisiana corporation; and each of them; and all other Defendants and all other persons claiming under them have no estate, right, title, lien, or other interest in or to the subject realty.

8. BAYOU PLANTATION, LTD. as owner in fee simple, is entitled to the quiet, peaceful and exclusive possession of the subject realty.

9. That LOUIS L. HUNTLEY as sole owner and holder of a valid and enforceable first mortgage and note on said realty is entitled to all appropriate rights pertaining thereto pursuant to the terms of said note and mortgage as amended.

10. That said Defendants, and each of them, and all persons claiming under them are hereby permanently enjoined from asserting any adverse claim to BAYOU PLANTATION, LTD.'s and LOUIS L. HUNTLEY's title and interest to the subject realty.

11. That this Court specifically reserves jurisdiction over the parties and the subject matter of this cause to enforce this order and to enter any and all such other relief as is deemed equitable and just, specifically including, but not limited to awards for attorney's fees.

DONE AND ORDERED at Daytona Beach, Volusia County, Florida this 10 day of Mar, 1998.

FILED  
CLERK OF COURT  
DIVISION OF  
93 JUN -7 AM 11:40

JUDGE SHAWN L. BRIESE  
CIRCUIT COURT JUDGE

COPIES TO:  
Daniel S. Wallace, Esquire, 431 North Grandview Avenue, Daytona Beach, FL 32118  
H. Charles Woerner, Jr., Esquire, 2001 South Ridgewood Avenue, South Daytona FL 32119 - Attorney for BAYOU PLANTATION, LTD.  
Louis Ossinsky, Jr., Esquire, 101 Corsair Drive, Suite 200, Daytona Beach FL 32114-3850 - Attorney for LAWRENCE E. BENNETT and Attorney for JAMES M. SMOAK, JR.  
J. Doyle Tumbleson, Esquire, 150 S. Palmetto Avenue, Box A, Daytona Beach FL 32114 - Attorney for BOMAR CONSTRUCTION, INC.  
Richard A. Burt, Esquire, 150 S. Palmetto Avenue, Box A, Daytona Beach FL 32114 - Attorney for PAUL DAVIS SYSTEMS, INC.  
John C. Revis, Esquire, 648 S. Ridgewood Avenue, Daytona Beach, FL 32114 - Attorney for BAY-WALSH PROPERTIES (FLORIDA), INC.

Edgar M. Dunn, Jr., Esquire, 347 S. Ridgewood Avenue, Daytona Beach  
 FL 32115-2600 - Attorney for THE DUNN CORPORATION

James J. Kearns, Esquire, 138 Live Oak Avenue, Daytona Beach FL  
 32114 - Attorney for H AND J DEVELOPMENT COMPANY

Edward H. Merrigan, Jr., Esquire, P. O. Box 45013, Jacksonville FL  
 32232-5013 - Attorney for BARNETT BANK OF VOLUSIA COUNTY;  
 BARNETT BANK, N.A.; BARNETT TECHNOLOGIES, INC.; JEROME MAHER;  
 BARNETT RECOVERY CORPORATION; ROBERT K. BIERI; JOHN PAVEY;  
 MEHDI GHOMESHI

Eric R. Hurst, Esquire, Hartman Building, Suite 307, 2012 Capital  
 Circle, Southeast, Tallahassee FL 32399-0658 - Attorney for  
 STATE OF FLORIDA DEPARTMENT OF LABOR AND EMPLOYMENT SECURITY

Steven A. Nisbet, Assistant United States Attorney, Attention:  
 Ronald Rodkey, Paralegal, 500 Zack Street, Suite 400, Tampa,  
 FL 33602 - Attorney for THE UNITED STATES OF AMERICA

John D. Emmanuel, Esquire, Post Office Box 1438, Tampa, FL 33601 -  
 Attorney for FLORIDA MINING & MATERIALS CONCRETE CORP.; EDGAR  
 J. MARSTON, III; DENNIS M. THIES; JAMES L. PERSKY and  
 SOUTHDOWN, INC.

VALERIE H. MANUEL, as bankruptcy trustee for James M. Smook, Jr.,  
 404 Julia Street, Suite 205, Jacksonville, FL 32201

PHOENIX 7, INC., a dissolved Florida corporation, c/o Kathleen M.  
 Bennett, registered agent, 633 Pelican Bay Drive, Daytona  
 Beach, FL

KATHLEEN RUTH McFARLAND f/k/a KATHLEEN M. BENNETT, individually and  
 as director and trustee of Phoenix 7, Inc., a dissolved  
 Florida corporation, 633 Pelican Bay Drive, Daytona Beach FL

ALEXANDER SMITH, as bankruptcy trustee for Lawrence E. Bennett,  
 2601 University Blvd. West, Jacksonville FL 32217-2112

COMMERCIAL CREDIT CORPORATION, a Maryland corporation, c/o C T  
 Corporation System, registered agent, 1200 S. Pine Island  
 Road, Plantation, FL 33324

GILES ELECTRIC COMPANY a/k/a GILES ELECTRIC COMPANY, INC., a  
 Florida corporation, c/o Arthur G. Giles, registered agent,  
 1700 S. Segrave Street, South Daytona FL 32121

DAVID R. JOHNSON d/b/a HALIFAX BLUE PRINT COMPANY, individually,  
 482 Magnolia Avenue, Ormond Beach FL 32176

C. S. GARDNER AND ASSOCIATES, INCORPORATED a/k/a C.S. GARDNER &  
 ASSOCIATES, INC., a Florida corporation, c/o Charles S.  
 Gardner, registered agent, 727 Park Ridge Circle, Port Orange,  
 FL 32127

MARTIN PAVING COMPANY, a Florida corporation, c/o Roger D. Martin,  
 registered agent, 1801 South Nova Road, South Daytona FL 32119

BRUNO SOCHA, individually, 888 Chickadee Court, Port Orange FL  
 32127

JOAN SOCHA, individually, 888 Chickadee Court, Port Orange FL 32127

FINLEY F. GIBSON, III d/b/a PRESTIGE CARPET OF DAYTONA,  
 individually, 3003 S. Atlantic Avenue, #11A2, Daytona Beach  
 Shores FL



A portion of Blocks 24 and 25, all of a 15 foot right-of-way lying between the North line of the Palmas Grant Subdivision and Block 25 Palmas Grant Subdivision and a portion of a vacated 30 foot Right-of-Way unopened and unused lying between Blocks 24 and 25, "Palmas Grant Subdivision" of Section 38, Township 16 South, Range 33 East, as shown in Map Book 1, page 23, of the Public Records of Volusia County, Florida, all lying East of U. S. Highway #1, (160 foot Right-of-Way as now occupied) being more particularly described as follows:

As a point of beginning commence at the intersection of the North line of "Palmas Grant", Section 38, Township 16 South, Range 33 East, with the easterly line of U. S. Highway #1, (160 foot Right-of Way); thence S 01°05'04" W along the easterly line of U. S. Highway #1 a distance of 1583.55 feet to a point of curvature; thence along a curve to the left having a radius of 3045.22 feet and through a central angle of 01°30'19" a distance of 80.00 feet to a point on said curve; thence departing the easterly line of U. S. Highway #1 S 88°54'56" E a distance of 285.00 feet more or less, to a point on the mean high water mark of Rose Bay; thence northerly along said mean high water mark a distance of 2030.00 feet more or less, to a point on the northerly line of Palmas Grant Subdivision," per Map Book 1, Page 23; thence S 59°07'40" W along said North line of "Palmas Grant" a distance of 552.09 feet, more or less, to the Point of Beginning.

also, per surveyor, described as:

A portion of Blocks 24 and 25, all of a 15' R/W lying between the North line of the Palmas Grant Subdivision and Block 25 Palmas Grant Subdivision and a portion of a vacated 30' R/W unopened and unused lying between Blocks 24 and 25, "Palmas Grant Subdivision" of Section 38, Township 16 South, Range 33 East, as shown in Map Book 1, Page 23, of the Public Records of Volusia County, Florida, all lying East of U. S. Hwy #1, (160 foot R/W as now occupied) being more particularly described as follows:

As a Point of Beginning commence at the intersection of the North line of "Palmas Grant", Section 38, Township 16 South, Range 33 East, with the easterly line of U. S. Hwy. #1 (160 foot R/W); thence S 01 deg 05 min 04 sec W along the easterly line of U. S. Hwy. #1 a distance of 1583.55' to a point of curvature; thence along a curve to the left having a radius of 3045.22' and through a central angle of 01 deg 30 min 19 sec a distance of 80.00' to a point on said curve; thence departing the easterly line of U. S. Hwy. #1 S 88 deg 54 min 56 sec a distance of 285.00'± to a point on the mean high water mark of Rose Bay; thence northerly along said mean high water mark a distance of 2030.00'±, to a point on the northerly line of "Palmas Grant Subdivision", per Map Book 1, Page 23; thence S 59 deg 07 min 40 sec W along said North line of "Palmas Grant" a distance of 552.09± to the Point of Beginning.

also, per surveyor, described as:

A portion of Blocks 24 and 25, all of a 15 foot right-of-way lying between the North line of the Palmas Grant Subdivision and Block 25 Palmas Grant Subdivision and a portion of a vacated 30 foot right-of-way unopened and unused lying between Blocks 24 and 25, "Palmas Grant Subdivision" of Section 38, Township 16 South, Range 33 East, as shown in Map Book 1, Page 23, of the Public Records of Volusia County, Florida, all lying East of U. S. Highway #1, (160 foot right-of-way as now occupied) being more particularly described as follows:

As a point of beginning commence at the intersection of the North line of "Palmas Grant", Section 38, Township 16 South, Range 33 East, with the Easterly line of U. S. Highway #1, (160 foot right-of-way), thence South 01 degrees 05 minutes 42 seconds West along the Easterly line of U. S. Highway #1 a distance of 1583.56 feet to a point of curvature, thence along a curve to the left having a radius of 3045.36 feet and through a central angle of 01 degrees 30 minutes 18 seconds a distance of 79.99 feet to a point on said curve, thence departing the Easterly line of U. S. Highway #1 South 88 degrees 54 minutes 56 seconds East a distance of 285.00 feet more or less to a point on the mean high water mark of Rose Bay, thence Northerly along said mean high water mark a distance of 2030.00 feet more or less, to a point on the Northerly line of "Palmas Grant Subdivision", per Map Book 1, Page 23, thence South 59 degrees 11 minutes 51 seconds West along said North line of "Palmas Grant" a distance of 531.26 feet more or less to the point of beginning.

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