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WC03-27550



CORPORATION SERVICE COMPANY™

ACCOUNT NO. : 072100000032

REFERENCE : 254533 9212A

AUTHORIZATION : *Patricia Kipp*

COST LIMIT : \$ 78.75

ORDER DATE : September 24, 2003

ORDER TIME : 12:22 PM

ORDER NO. : 254533-005

CUSTOMER NO: 9212A

CUSTOMER: Becky Stokes, Legal Assistant  
Gargano & Marchewka, L.l.p.

Suite 203  
2075 West First Street  
Fort Myers, FL 33901

DOMESTIC FILING

NAME: WORTHINGTON COMMERCE PARK  
OWNERS ASSOCIATION, INC.

EFFECTIVE DATE:

XX ARTICLES OF INCORPORATION  
       CERTIFICATE OF LIMITED PARTNERSHIP  
       ARTICLES OF ORGANIZATION

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

XX CERTIFIED COPY  
       PLAIN STAMPED COPY  
       CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Susie Knight - EXT. 1156

EXAMINER'S INITIALS: \_\_\_\_\_



FLORIDA DEPARTMENT OF STATE

Glenda E. Hood  
Secretary of State

September 25, 2003

CSC

**RESUBMIT**

SUBJECT: WORTHINGTON COMMERCE PARK OWNERS ASSOCIATION, INC.

Ref. Number: W03000027550

RECEIVED  
03 SEP 26 AM 8:56  
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We have received your document for WORTHINGTON COMMERCE PARK OWNERS ASSOCIATION, INC. and your check(s) totaling \$. However, the enclosed document has not been filed and is being returned for the following correction(s):

You must list the corporation's principal office and/or a mailing address in the document.

The name of the entity must be identical throughout the document.

Please return the original and one copy of your document, along with a copy of this letter, within 60 days or your filing will be considered abandoned.

If you have any questions concerning the filing of your document, please call (850) 245-6931.

Becky McKnight  
Document Specialist  
New Filings Section

Letter Number: 603A00052845

ARTICLES OF INCORPORATION OF  
WORTHINGTON COMMERCE PARK OWNERS ASSOCIATION, INC.  
(A NON-PROFIT FLORIDA CORPORATION)

ARTICLE I - NAME

The name of this Corporation is **WORTHINGTON COMMERCE PARK OWNERS ASSOCIATION, INC.** The principal address and the mailing address is 9240 Market Place Road, Suite #2, Fort Myers, Florida 33912.

ARTICLE II - PURPOSE

This Corporation is organized as a non-profit corporation pursuant to Chapter 617, Florida Statutes, to act as the governing Master Association of **WORTHINGTON COMMERCE PARK** located in Lee County, Florida.

ARTICLE III - DEFINITIONS

Capitalization of a word or term not normally capitalized indicates the word or term is defined in the Declaration of General Protective Covenants, Conditions and Restrictions of WORTHINGTON COMMERCE PARK ("**Declaration**") and has that meaning when used in these Articles of Incorporation and any amendments hereto. In addition, Appendix A of the Declaration concerning interpretation applies to the interpretation of these Articles of Incorporation.

ARTICLE IV - MEMBERSHIP

This Corporation is organized on a non-stock basis and will not issue shares of stock. Membership may (but is not required to) be evidenced by a Certificate of Membership. The qualification of members and the manner of their admission are as follows: every Owner of a Lot within WORTHINGTON COMMERCE PARK is a Member. Each Owner accepts membership and agrees to be bound by the Declaration, these Articles of Incorporation, and By-Laws of this Corporation, and the Rules and Regulations adopted pursuant thereto. Membership is appurtenant to a Lot and may not be transferred separate and apart from a transfer of ownership of a Lot. Membership commences upon acquisition, and terminates upon sale or transfer, of an Owner's interest in a Lot, whether voluntary or involuntary. An Owner's grant of a security interest in a Lot as security for an obligation neither terminates the Owners' membership in the Association, nor makes the creditor secured thereby a Member.

ARTICLE V - EXISTENCE

This Corporation exists perpetually. However, in the event this Corporation is dissolved, the Common Areas of WORTHINGTON COMMERCE PARK, including but not limited to, the Surface Water Management System, and any other facility required by government development order or permit, including but not limited to, if required private streets and adjacent drainage, utilities, public water and sewage system, open space, parks, recreation areas, buffers, conservation easements, preserve and buffer areas, in accordance with those government regulations or permits which are applicable thereto and the Declaration will be conveyed or dedicated to a similar non-profit organization to assure continued maintenance in perpetuity.

#### **ARTICLE VI - SUBSCRIBER(S)**

The name and address of the subscriber to these Articles of Incorporation is:

John Gnagey  
9240 Market Place Road  
Suite #2  
Fort Myers, Florida 33912

#### **ARTICLE VII - MANAGEMENT**

The affairs of the Corporation will be managed initially by a Board of Directors of three (3) members. The manner members of the Board of Directors will be elected or appointed is set forth in the By-Laws of the Corporation.

#### **ARTICLE VII - INITIAL BOARD OF DIRECTORS**

The number of persons constituting the initial Board of Directors is three (3) and their names and addresses are as follows:

John Gnagey  
9240 Market Place Road  
Suite #2  
Fort Myers, Florida 33912

Scott Connell  
9240 Market Place Road  
Suite #2  
Fort Myers, Florida 33912

Ron Zull  
9240 Market Place Road  
Suite #2  
Fort Myers, Florida 33912

#### **ARTICLE IX - INITIAL OFFICERS**

The names of the initial officers who will serve until their successors are elected or appointed as provided in the Bylaws are:

President: John Gnagey

Vice President: Ron Zull

Vice President: Scott Connell

Secretary/Treasurer: Andrea Skiera

#### **ARTICLE X - BY-LAWS**

The Bylaws of the Corporation will be made, altered or rescinded by the members of the Corporation as provided in the Bylaws.

#### **ARTICLE XI - AMENDMENTS**

Amendments of these Articles of Incorporation may be proposed and adopted at any regular meeting or specially called meeting of the Members of the Corporation by the affirmative vote of seventy-five percent (75%) all the Members. Due notice of the meeting must have been given as provided for in the Bylaws.

## ARTICLE XII - POWERS

This Corporation has all power and authority granted to it by the Florida Not for Profit Corporation Act, Chapter 517, Florida Statutes, which do not conflict with the Declaration, including, but not limited to:

1. this Corporation may own and convey real and personal property;
2. this Corporation will establish, amend or rescind Bylaws as well as Rules and Regulations; provided, however, that Bylaws and Rules and Regulations do not conflict with these Articles or the Declaration;
3. this Corporation will fix, establish and assess Members and enforce those assessments against Members (Owners) and their Lots within WORTHINGTON COMMERCE PARK according to the Declaration;
4. this Corporation may sue and be sued;
5. this Corporation may contract for services necessary for operation and maintenance;
6. this Corporation will operate, maintain, replace and repair the Common Areas of WORTHINGTON COMMERCE PARK, including but not limited to, the Surface Water Management System as permitted by the South Florida Water Management District, including all lakes, retention areas, culverts, and related appurtenances, as well as any conservation areas which include, but are not limited to reserved wetlands, upland buffers, upland construction areas and preserves (to the extent not operated, maintained, replaced, and repaired by the Gateway Services Community Development District);
7. this Corporation will operate, maintain, replace and repair those facilities if required by governmental development order or permit, to the extent not operated, maintained, replaced, and repaired by the Gateway Services District, including but not limited to private streets and adjacent drainage, utilities, public water and sewage system, open space, parks, recreation areas, conservation areas, preserve areas and buffer areas, in accordance with those government regulations or permits which are applicable thereto, and in accordance with the Declaration;
8. this Corporation has all other powers necessary to perform and exercise the duties of the Association as set forth in the Declaration; and
9. this Corporation will pay taxes and assessments which are liens against the Corporation, the Common Areas and its property.

## ARTICLE XIII - VOTING

For purposes of voting rights only, the Association has two (2) categories of membership: (1) Class A Memberships, which include all Owners of Lots within WORTHINGTON COMMERCE PARK; (2) Class B Membership which is held exclusively by the Declarant and its designated successors and assigns.

1. Class A Membership. Class A Members are entitled to one (1) vote for each Lot owned by that Class A Member; provided, however, that multiple Owners of a Lot have a total of only one (1) vote for one (1) Lot. A Class A Member who owns a Lot which is subdivided into Lots is entitled to one vote for each Lot.
2. Class B Membership. The Class B Member is the Declarant, its assignee or designee to whom the Declarant assigns all or part of its voting rights as a Class B Member. The Declarant has the

number of votes at any meeting in which votes are to be taken equal to the total of all Class A Members plus one vote. Class B Membership terminates and converts on a Lot basis to Class A membership within three (3) months of the date Declarant conveys at least ninety percent (90%) of the Lots within The Properties to Owners other than the Declarant or any Sub-Developer, or on an earlier date as the Declarant may elect to terminate its Class B Membership.

4. Election of Board of Directors. Directors of the Association will be elected and removed, and vacancies on the Board of Directors will be filled, as provided in these Articles of Incorporation and the By-Laws.

5. Control of Board of Directors During Development. During the time Declarant is a Class B Member, Declarant has the right to designate, elect and remove members of the Board, and the Directors designated by Declarant need not be Members. In addition, as long as Declarant owns at least five percent (5%) of the Lots within The Properties and owns them for sale in the ordinary course of its business, Declarant is entitled to elect at least one (1) Director. The Declarant may waive its right to elect at least one (1) Director.

6. Successor by Foreclosure. In the event a mortgagee or other person or entity acquires title to a Lot by foreclosure or deed in lieu of foreclosure, that mortgagee or other person or entity, has the category of membership last held by the Owner of the Lot from whom title was acquired.

7. Majority. When reference is made herein, or in the By-Laws, Rules and Regulations, management contracts or otherwise, to a "majority" or specific "percentage of Members," that reference is reference to a majority or specific percentage of the votes of Members represented at a duly constituted meeting (i.e., one for which proper notice has been given and at which a quorum exists) and not of all the Members of the Association.

#### ARTICLE XIV - ADDITIONS

Declarant, Worthington Holdings, LLC, as long as it owns property in WORTHINGTON COMMERCE PARK may add property to and withdraw property from WORTHINGTON COMMERCE PARK in accordance with the Declaration and thereby increase or decrease the number of Members.

#### ARTICLE XV - DISSOLUTION

1. The Corporation may be dissolved if: (1) not less than three-fourths (3/4) of the members of the Board of Administration adopt a resolution to dissolve the Corporation; (2) the resolution is approved by Declarant for so long as it is a Member; (3) not less than three-fourths (3/4) of the Members of the Corporation approve the resolution; and (4) a decree is issued in accordance with Section 617.05, Florida Statutes. Upon dissolution of the Corporation, all of its assets remaining after provision for creditors and payment of all costs and expenses of dissolution will be distributed in the following manner:

a. real property contributed to the Corporation, without the receipt of other than nominal consideration, by Declarant will be returned in fee simple and without encumbrances to Declarant or its successor whether or not it is a Member at the time of dissolution, unless it refuses to accept the conveyance in whole or in part;

b. property determined by the Board of Administration to be appropriate for dedication to an applicable governmental agency or utility will be dedicated to that agency or utility. In the event that dedication is refused acceptance, that property will be granted, conveyed and assigned to a nonprofit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable as those to which they were required to be devoted by the Corporation;

c. any remaining assets will be distributed among the Members subject to the limitations set forth below, as tenants in common, each Member's share of the assets to be determined as may be provided in the Bylaws, or in the absence of a provision, in accordance with each Member's voting rights; and

d. no disposition of the Corporation's property is effective to divest or diminish any right or title of any Member vested in him under a deed or other recorded instrument applicable to a Lot owned by that Member unless made in accordance with provisions of that deed or instrument.

2. In the event of the termination, dissolution or final liquidation of the Corporation, the responsibility for the operation and maintenance of the Surface Water Management System will be transferred to and accepted by an entity approved by the South Florida Water Management District, the County and the City (if applicable) prior to termination, dissolution or liquidation.

#### **ARTICLE XVI - INITIAL REGISTERED OFFICE AND REGISTERED AGENT**

The name of the initial registered agent of this Corporation and the street address of the initial registered office of this Corporation is:

John Gnagey  
9240 Market Place Road  
Suite #2  
Fort Myers, Florida 33912

#### **ARTICLE XVII - INDEMNIFICATION**

The Corporation will indemnify the Subscriber to these Articles, the Registered Agent, every member of the Board of Administration and every officer, his/her heirs, personal representatives and assigns against all loss, cost and expenses reasonably incurred by or imposed upon him/her in connection with any action, suit or proceeding to which he/she may be a party by reason of his/her being or having been a Subscriber, Registered Agent, Board of Administration member or officer of the Corporation, including reasonable attorneys' fees, except as to matters wherein he/she will be finally adjudged in that action, suit or proceeding to be liable for, or guilty of, gross negligence, willful misconduct or malfeasance in the performance of his/her duty; provided that in the event of any claim for indemnification hereunder based on a settlement by the Board member or officer seeking indemnification, the indemnification will apply only if the Board of Administration approves the indemnification. The foregoing right of indemnification is in addition to and not exclusive of all other rights to which the Subscriber, Registered Agent, Board Member or officer is entitled. The Board may, as and when available, obtain officers' and Board of Administration members' liability insurance and the cost is a Common Expense.

#### **ARTICLE XVIII - COMMENCEMENT OF CORPORATION EXISTENCE**

In accordance with Section 607.0123(b), Florida Statutes, the date when corporate existence commences is the date of subscription and acknowledgment of these Articles of Incorporation.

#### **ARTICLE XIX - AMENDMENT**

Amendments to these Articles of Incorporation may be proposed and adopted in the following manner:

1. **Notice.** Notice of the subject matter of a proposed Amendment will be included in the notice of any meeting at which the proposed Amendment will be considered.

2. **Adoption.** An Amendment may be proposed by a majority of the Board of Directors or by not less than a majority of the Members. Subject to the limitations set forth in Three below, the Amendment will be adopted if it is approved either by:

- a. not less than two-thirds (2/3rds) of the votes of all Members and by not less than seventy-five percent (75%) of the Board of Directors; or
- b. by not less than seventy five percent (75%) of the votes of all the Members.

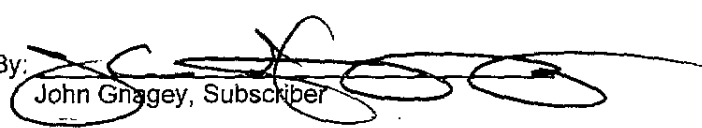
3. **Limitations.** No Amendment may be made that is in conflict with the Chapter 617, Florida Statutes, or the Declaration, nor shall any amendment abridge, alter or amend the rights of the Declarant or mortgagees of Lots or Residences without their consent. Prior to Turnover an Amendment requires the consent of the Declarant.

4. **Recording.** A copy of each Amendment will be attached to a certificate certifying that the Amendment was duly adopted as an Amendment of the Articles of Incorporation. The certificate will be executed by the President or Vice President and attested by the Secretary or assistant Secretary of the Corporation with the formalities of a deed. The amendment is effective when the certificate and copy of the Amendment are recorded in the Public Records of the County.

5. **Format.** Proposals to amend the existing Articles of Incorporation must contain the full text of the Articles of Incorporation to be amended. New words will be underlined and words to be deleted will be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendments saying "SUBSTANTIAL REWORDING OF ARTICLES. SEE ARTICLE NUMBER \_\_\_ FOR PRESENT TEXT."


IN WITNESS WHEREOF, the undersigned subscriber has executed these Articles of Incorporation this 10TH day of SEPTEMBER, 2003.

By:

  
John Gnagey, Subscriber

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing Articles of Incorporation of Worthington Commerce Park Owners Association, Inc. were acknowledged before me this 10TH day of SEPTEMBER, 2003 by John Gnagey, who is personally known to me and who did not take an oath.

  
Notary Public

\_\_\_\_\_  
(Typed name)

My commission expires:



Barbara George  
My Commission DD039430  
Expires September 17 2005

**CERTIFICATE  
DESIGNATING PLACE OF BUSINESS OR DOMICILE  
FOR THE SERVICE OF PROCESS WITHIN THE STATE,  
NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

In pursuance of Chapter 48.091, Florida Statutes (the "Act"), the following is submitted, in compliance with the Act:

First, that WORTHINGTON COMMERCE PARK OWNERS ASSOCIATION, INC., desiring to organize under the laws of the State of Florida with its initial registered office, as indicated in the Articles of Incorporation, at Naples, County of Lee, State of Florida, has named John Gnagey, located at 9240 Market Place Road, #2 Fort Myers, Florida 33912, as its agent to accept service of process within the State.

**ACKNOWLEDGMENT:**

Having been named to accept service of process for the above-styled corporation, at place designated in this certificate, I hereby accept to act in this capacity, and agree to comply with the provision of the Act relative to keeping open the office.

  
John Gnagey

FILED  
03 SEP 24 PM 12:34  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA