

Division of Corporations

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Division of Corporations
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R. WHITE

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HORIZON HOMES AT RIVERVIEW, INC.

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May 21, 2014

FLORIDA DEPARTMENT OF STATE

Division of Corporations

HORIZON HOMES AT RIVERVIEW, INC.
8000 N FEDERAL HWY
SUITE 200
BOCA RATON, FL 33487

SUBJECT: HORIZON HOMES AT RIVERVIEW, INC.
REF: P01000076451

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FLORIDA DEPARTMENT OF STATE

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refile the complete document, including the electronic filing cover sheet.

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.

Please return 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) 245-6050.

Darlene Connell
Regulatory Specialist II

FAX Aud. #: H14000118770
Letter Number: 614A00011032

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DALE CANASSEL, FLORIDA

**ARTICLES OF AMENDMENT TO
 ARTICLES OF INCORPORATION OF HORIZON HOMES AT RIVERVIEW, INC.**

- FIRST:** The date of the filing of the Articles of Incorporation of HORIZON HOMES AT RIVERVIEW, INC. was August 3, 2001.
- SECOND:** Article IX, which was added to and incorporated within the Articles of Incorporation of the Corporation by virtue of the Articles of Amendment to Articles of Incorporation filed with the Secretary of State of the State of Florida on September 1, 2004, is hereby deleted from the Articles of Incorporation of the Corporation.
- THIRD:** The following Article IX is hereby added to and incorporated within, the Articles of Incorporation of the Corporation:

**ARTICLE IX
 SPECIAL PURPOSE ENTITY COVENANTS**

In connection with the Corporation borrowing a loan (the "Loan") from Starwood Mortgage Capital LLC, a Delaware limited liability Corporation (together with its successors and/or assigns, hereinafter "Lender") pursuant to the terms and conditions of that certain Loan Agreement by and between the Corporation and Lender (the "Loan Agreement"), this Article IX is being adopted by the Members at the request of Lender and constitutes a material requirement of the Loan without which Lender would be unwilling to make the Loan. All initially capitalized terms used in this Article IX, but not defined in this Agreement, shall have the same meaning that such terms have in the Loan Agreement. Notwithstanding anything to the contrary contained in this Agreement, for so long as any obligations under the Loan remain outstanding, the following provisions shall control:

1. Special Purpose Entity Covenants.

(i) The Corporation (a) is, and will be organized solely for the purpose of acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, managing and operating the Property, entering into the Loan Agreement with the Lender, refinancing the Property in connection with a permitted repayment of the Loan, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing, and (b) has not owned, does not own, and will not own any asset or property other than (1) the Property, and (2) incidental personal property necessary for the ownership or operation of the Property.

(ii) The Corporation will not engage in any business other than the ownership, management and operation of the Property and the Corporation will conduct and operate its business substantially as presently conducted and operated.

(iii) The Corporation will not enter into any contract or agreement with any Affiliate of the Corporation, or any constituent equity owner of the Corporation (such as "Constituent Owner") or any Affiliate of any Constituent Owner, except upon terms and conditions that are intrinsically fair, commercially reasonable, and not materially less favorable to it than would be available on an arms-length basis with third parties other than any such party.

(iv) The Corporation will not incur any indebtedness other than (i) the Debt, and (ii) unsecured trade payables and operational debt not evidenced by a note and in an

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aggregate amount not exceeding one percent (1%) of the original principal amount of the Loan at any one time; provided that any Indebtedness incurred pursuant to subclause (ii) shall be (A) past due not more than sixty (60) days, and (B) incurred in the ordinary course of business. No Indebtedness other than the Debt may be secured (senior, subordinate or *pari passu*) by the Property.

(v) The Corporation will not make any loans or advances to any third party (including any Affiliate or Constituent Owner), and has not and shall not acquire obligations or securities of its Affiliates.

(vi) The Corporation will remain solvent and the Corporation has paid and will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due.

(vii) The Corporation will do all things necessary to observe organizational formalities and preserve its existence, and the Corporation will not, (a) terminate or fail to comply with the material provisions of its organizational documents, or (b) unless (1) Lender has consented and (2) following a Securitization of the Loan, the applicable Rating Agencies have issued a Rating Agency Confirmation in connection therewith, amend, modify or otherwise change its partnership certificate, partnership agreement, articles of incorporation and bylaws, operating agreement, trust or other organizational documents.

(viii) The Corporation will maintain all of its books, records, financial statements and bank accounts separate from those of its Affiliates and any other Person. The Corporation's assets will not be listed as assets on the financial statement of any other Person, provided, however, that the Corporation's assets may be included in a consolidated financial statement of its Affiliates provided that (a) appropriate notation shall be made on such consolidated financial statements to indicate the separateness of the Corporation and such Affiliates and to indicate that the Corporation's assets and credit are not available to satisfy the debts and other obligations of such Affiliates or any other Person, and (b) such assets shall be listed on the Corporation's own separate balance sheet. The Corporation will file its own tax returns (to the extent the Corporation is required to file any such tax returns) and will not file a consolidated federal income tax return with any other Person. The Corporation shall maintain its books, records, resolutions and agreements as official records.

(ix) The Corporation will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other entity (including any Affiliate of the Corporation or any Constituent Owner of the Corporation), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, shall not identify itself or any of its Affiliates as a division or department or part of the other and shall maintain and utilize separate stationery, invoices and checks bearing its own name.

(x) The Corporation will 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.

(xi) Neither the Corporation nor any constituent party of the Corporation will seek or effect the liquidation, dissolution, winding up, consolidation, asset sale or merger, in whole or in part, of the Corporation.

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(xii) The Corporation will not commingle the funds and other assets of the Corporation with those of any Affiliate or Constituent Owner or any other Person, and has held and will hold all of its assets in its own name.

(xiii) The Corporation will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any Affiliate or Constituent Owner or any other Person.

(xiv) The Corporation will not assume or guarantee or become obligated for the debts of any other Person and does not and will not hold itself out to be responsible for or have its credit available to satisfy the debts or obligations of any other Person.

(xv) The Corporation will not permit any Affiliate or Constituent Owner independent access to its bank accounts.

(xvi) The Corporation shall pay its own liabilities and expenses, including the salaries of its own employees (if any) from its own funds, and has maintained and shall maintain a sufficient number of employees (if any) in light of its contemplated business operations.

(xvii) The Corporation shall compensate each of its consultants and agents from its funds for services provided to it and pay from its own assets all obligations of any kind incurred.

(xviii) The Corporation, without the unanimous consent of all of its members, will not (a) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally, (b) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such entity or for all or any portion of the Corporation's properties, (c) make any assignment for the benefit of the Corporation's creditors, or (d) take any action that might cause the Corporation to become insolvent.

(xix) The Corporation will maintain an arm's length relationship with its Affiliates.

(xx) The Corporation will allocate fairly and reasonably any overhead expenses that are shared with any Affiliate, including shared office space.

(xix) The Corporation will not pledge its assets for the benefit of any other Person.

(xxii) The Corporation will have no obligation to indemnify its officers, directors, members or partners, as the case may be, or has such an obligation that is fully subordinated to the Debt and will not constitute a claim against it if cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation.

(xxiii) The Corporation will not: (a) dissolve, merge, liquidate, consolidate; (b) sell, transfer, dispose, or encumber (except with respect to the Loan Documents) all or substantially all of its assets or acquire all or substantially all of the assets of any Person; or (c) engage in any other business activity, or amend its organizational documents with respect to the matters set forth in this Article IX without the consent of the Lender.

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(xxiv) The Corporation will consider the interests of the Corporation's creditors in connection with all limited liability Corporation actions.

(xxv) Except for the obligations of Guarantor (as defined in the Loan Agreement) under the Loan, the Corporation has not, does not, and will not have any of its obligations guaranteed by any Affiliate.

2. Distributions. No distributions shall be made other than from net cash flow following repayment of all amounts due under the Loan Agreement and the other Loan Documents (as defined in the Loan Agreement).

3. Transfers. No transfers or assignments of any membership interests in the Corporation may be made other than in accordance with the terms and conditions set forth in the Loan Agreement.

4. Indemnification Subordinate. Any obligation to indemnify any member, manager, officer, director, employee or any other party shall be fully subordinate to all obligations of the Corporation under the Loan.

5. Amendments. No amendment to this Agreement, or any other organizational document of the Corporation may be made without the Lender's prior written consent, which consent shall not be unreasonably withheld or delayed.

Note: The foregoing Articles of Amendment was approved by the Board of Directors of the Corporation and shareholder action was not required.


ERIC P. PLATERO, President

Date: May 19, 2014
of Adoption
of Amendment:

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