

Division of Corporations

Page 1 of 1

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SECRETARY OF STATE  
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**FLORIDA PROFIT CORPORATION OR P.A.**

**GRAYHAWK MAGNOLIA INC.**

Certificate of Status	0
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ARTICLES OF INCORPORATION  
OF  
GRAYHAWK MAGNOLIA, INC.

In compliance with Chapter 607, F.S.

The undersigned, being of legal age, desiring to form a corporation pursuant to the laws of the State of Florida, does hereby certify as follows:

1. The name of the Corporation is Grayhawk Magnolia, Inc. (the "Corporation").
2. The sole purpose for which the Corporation is formed is to act as a member of Magnolia Place Apartments, LLC, a Florida limited liability company (the "Company") and to engage in any activity and to exercise any powers permitted to corporations under the laws of the State of Florida that are incident, necessary and appropriate to accomplish the foregoing.
3. The office of the Corporation in the State of Florida shall be located in the County of Palm Beach.
4. The aggregate number of shares which the Corporation shall have the authority to issue shall be 100 shares of Common Stock, without par value.
5. The principal place of business and mailing address of the Corporation is:  
  
4495 Emerald Vista  
Suite #2  
Lake Worth, Florida 33461
6. Notwithstanding any other provision of this Certificate of Incorporation and any provision of law that otherwise so empowers the Corporation, so long as the first mortgage in favor of Arbor Realty Funding, LLC (the "First Mortgage") on the real property of the Company is outstanding, the Corporation may not, without the prior written consent of Arbor Realty Funding, LLC, as the holder of the First Mortgage ("Lender"), do any of the following:
  - (a) engage in any business or activity other than those set forth in Paragraph 2 of this Certificate of Incorporation; or
  - (b) incur any indebtedness or assume or guaranty any indebtedness.
7. So long as the First Mortgage is outstanding, the Corporation may not do any of the following:
  - (a) dissolve or liquidate, in whole or in part;
  - (b) consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to any entity;

(((H05000160440 3)))

- (c) withdraw as a member of the Company;
- (d) amend or cause to be amended the organizational documents of the Corporation or the Company with respect to changing the sole purpose of the Corporation or the Company or the separateness covenants contained therein; or
- (e) take any action that might cause the Corporation or the Company to become insolvent.

8. So long as the First Mortgage is outstanding, the board of directors of the Corporation (the "Board of Directors") may not do, or cause the Company to do, any of the following without the affirmative vote of 100% of the members of the Board of Directors, including the Independent Director (as hereinafter defined):

- (a) institute proceedings to be adjudicated bankrupt or insolvent;
- (b) consent to the institution of bankruptcy or insolvency proceedings against it;
- (c) file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy;
- (d) seek or consent to the appointment of a receiver, liquidator, conservator, assignee, trustee, sequestrator, custodian or any other similar official of the Corporation or the Company or a substantial part of its properties;
- (e) make any assignment for the benefit of creditors;
- (f) admit in writing its inability to pay its debts generally as they become due;
- (g) otherwise seek relief under any laws relating to the relief from debts or the protection of debtors generally;
- (h) take any corporate action in furtherance of any of the preceding actions;
- (i) engage in transactions with affiliates, except as otherwise provided in the loan documents regarding the First Mortgage Loan; or
- (j) except as otherwise provided in Paragraph 7(d) hereof, amend the organizational documents of the Corporation or the Company.

9. The Corporation shall, and use its best efforts to cause the Company to:

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(a) maintain its own separate books and records and its own accounts, in each case which are separate and apart from the books and records and accounts of any other Person;

(b) hold itself out as being a Person (as defined in the Loan Agreement regarding the First Mortgage Loan), separate and apart from any other Person;

(c) not commingle its funds or assets with those of any other Person;

(d) conduct its own business in its own name;

(e) maintain separate financial statements;

(f) pay its own liabilities and expenses out of its own funds;

(g) observe all corporate formalities, as applicable;

(h) pay the salaries of its own employees, if any, and maintain a sufficient number of employees, if any, in light of its contemplated business operations;

(i) not guarantee or otherwise obligate itself with respect to the debts of any other Person or hold out its credit as being available to satisfy the obligations of any other Person;

(j) not acquire obligations or securities of its partners, members or shareholders;

(k) allocate fairly and reasonably shared expenses, including, without limitation, any overhead for shared office space, if any;

(l) use separate stationery, invoices, and checks;

(m) maintain an arms-length relationship with its Affiliates (as defined in the Loan Agreement regarding the First Mortgage Loan);

(n) not pledge its assets for the benefit of any other Person or make any loans or advances to any other Person;

(o) correct any known misunderstanding regarding its separate identity;

(p) maintain adequate capital in light of its contemplated business operations;

(q) enter into transactions with affiliates only on a commercially reasonable basis;

(r) have articles of incorporation which have been approved by Lender;

(s) not engage in, seek, or consent to the dissolution, winding up, liquidation, consolidation or merger and shall not engage in, seek or consent to any asset sale, transfer of the

Company, membership or shareholder interests, or amendments of its Company or operating agreement, certificate of incorporation, articles of organization or other organizational document; and

- (i) file its own tax returns.

10. The Board of Directors of the Corporation shall at all times while the First Mortgage is outstanding include at least one Independent Director. An "Independent Director" shall mean a director of the Corporation who is not and has not been at any time in the preceding five (5) years and shall not be at any time while serving as Independent Director, (i) a stockholder, director, officer, member, employee or partner of the Corporation or the Company or any affiliate of either of them; (ii) a customer, supplier or other person who derives more than 10% of his/her/its purchases or revenues from his/her/its activities with the Corporation or the Company or any affiliate of either of them or an employee of such customer, supplier or other person; (iii) a person controlling or under common control with any such stockholder, director, officer, member, employee, partner, customer, supplier or other person or (iv) a member of the immediate family of any such stockholder, director, officer, member, 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).

11. The Board of Directors of the Corporation shall be required to consider the interests of creditors of the Corporation and the Company in connection with all corporate action.

12. So long as the First Mortgage is outstanding, no transfer of any direct or indirect ownership interest in the Corporation such that the transferee owns more than a 49% interest in the Corporation (or such other interest as specified in the First Mortgage) may be made unless such transfer is conditioned upon the delivery of an acceptable Non-Consolidation Opinion (as defined below) to the holder of the First Mortgage and to any nationally recognized rating agency which has been requested by the holder of the First Mortgage or any transferee of such holder to rate any issue of securities issued in respect of a pool of mortgage loans which includes the loan secured by the First Mortgage (the "Certificates") and which is then rating, or expected to rate, such Certificates (individually, a "Rating Agency"), concerning, as applicable, the Corporation, the new transferee and/or their respective owners.

For purposes of this Paragraph, "Non-Consolidation Opinion" shall mean an opinion of counsel to the Company (reasonably satisfactory to the holder of the First Mortgage and each Rating Agency in form and substance, from counsel reasonably satisfactory to the holder of the First Mortgage and each Rating Agency and containing assumptions, limitations and qualifications customary for opinions of such type) to the effect that a court of competent jurisdiction in a proceeding under the United States Bankruptcy Code would not consolidate the assets and liabilities of the Corporation with those of any shareholder or affiliate thereof which became a debtor under the United States Bankruptcy Code, and if applicable to the Company, that any such transfer would not be a fraudulent conveyance under the United States Bankruptcy Code.

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13. So long as the First Mortgage is outstanding, without the prior written consent of the holder of the First Mortgage and the vote of one hundred percent (100%) of the members of the Board of Directors, including the Independent Director, the Corporation may not amend, alter, change or repeal Paragraphs 2, 6, 7, 8, 9, 10, 11, 12 or 13 of these Articles of Incorporation.

14. The name and Florida street address of the Registered Agent is:

Mr. Lawrence B. Hawkins  
4495 Emerald Vista  
Suite #2  
Lake Worth, Florida 33461

15. The name and address of the Incorporator is:

Mr. Lawrence B. Hawkins  
4495 Emerald Vista  
Suite #2  
Lake Worth, Florida 33461

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IN WITNESS WHEREOF, these Articles of Incorporation has been executed this 30<sup>th</sup> day of JUNE, 2005, by the undersigned who affirms that the statements contained herein are true under the penalties of perjury.

[Signature]  
Incorporator-Lawrence B. Hawkins

6/30/05  
Date

Having been named as Registered Agent to accept service of process for the above stated corporation at the place designated in this certificate, I am familiar with and accept the appointment as Registered Agent and agree to act in this capacity.

[Signature]  
Registered Agent-Lawrence B. Hawkins

6/30/05  
Date