

EXHIBIT "B" TO
DECLARATION FOR BEAR CLIFF BYLAWS

BYLAWS
OF
BEAR CLIFF OWNERS ASSOCIATION, INC.

ARTICLE 1

NAME AND LOCATION

Section 1.1. Name. The name of the corporation is BEAR CLIFF OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association".

Section 1.2. Location. The principal office of the Association shall be located in McDowell County, North Carolina. The registered office of the Association may be, but need not be identical with the principal office.

Section 1.3. Purpose. The purpose for which the Association is organized is to further social activities of Owners of Lots in Bear Cliff Subdivision located in McDowell County and in connection therewith to provide services to such property owners, manage and maintain the Common Areas and administer and enforce all covenants and restrictions dealing with the Property located in Bear Cliff and any other purposes allowed by law.

ARTICLE 2

DEFINITIONS

All capitalized terms when used in these Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Declaration of Covenants, Conditions and Restrictions for Bear Cliff executed by Black Bear Development, Inc., and duly recorded in the McDowell County Public Registry, North Carolina, as the same may be supplemented and amended from time to time (the "Declaration").

ARTICLE 3

MEETINGS OF MEMBERS

Section 3.1. Annual Meetings. The first annual meeting of the Members shall be held ~~December 15~~, 2003, or on such other date as determined by a vote of the

Board of Directors, and each subsequent regular annual meeting of the Members shall be held in May each year thereafter. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3.2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote.

Section 3.3. Place of Meetings. All meetings of the Members and the Member owning Boat-slip Lots shall be held at such a place, within McDowell County, North Carolina, as shall be determined by the Board of Directors of the Association.

Section 3.4. Notice of Meetings. Written notice of each meeting of the Members and Members owning Boat-slip Lots shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage paid, not less than thirty (30) days nor more than sixty (60) days before the date of such meeting to each Member entitled to vote thereat, addressed to each applicable Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.5. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights.

- (a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote for each Class A Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.
- (b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. Declarant shall be entitled to four (4) votes for each Class B Lot owned by it.

Section 3.6. Relinquishment of Control. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the number of votes in the Class A membership held by Owners occupying full-time homes in the Subdivision equals the total number of votes outstanding in the Class B membership, and the Declarant surrenders its right to annex any Additional Property to the Property pursuant to these Bylaws; or
- (b) upon the expiration of five (5) full years after the registration of the Declaration; or
- (c) Declarant, in its sole discretion, elects to convert the Class B Lots to Class A Lots. Any such election, to be effective, must be in writing and recorded in the McDowell County Public Registry, North Carolina.

Section 3.7. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitles to cast, one-third (1/3) of the votes appurtenant to the Lots shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 3.8. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 3.9. Action by Members. Except as provided otherwise in the Articles of Incorporation, the Declaration or these Bylaws, any act or decision approved by a vote of no less than two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present shall be regarded as the act of the Members.

Section 3.10. Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, are present at a meeting of such Members, no notice shall be required and any business may be transacted at such meeting.

Section 3.11. Informal Action by Members. Any action which may be taken at a meeting of the Members, Lots may be taken without a meeting if a consent in

writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

ARTICLE 4

BOARD OF DIRECTORS

Section 4.1. Number. The business and affairs of the Association shall be managed by a Board of three directors, who need not be Members of the Association. At the first annual meeting of the Members following relinquishment of Declarant control pursuant to Section 3.7 of the Bylaws, a Board of three directors shall be elected as described in Section 4.5.

Section 4.2. Initial Directors. The initial directors shall be selected by the Declarant. Such initial directors shall serve at the election of the Declarant from the date upon which this Declaration is recorded in the Office of the Registry of Deeds for McDowell County until such time as their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board of Directors from the date upon which this Declaration is recorded in the Office of the Registry of Deeds for McDowell County until such time as their successors are duly elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
Dale Lunsford	2660 Airport Rd., Marion, NC 28752
Veda Rowe	1880 South Creek Rd., Nebo, NC 28761
Joseph K. Hall	P.O. Box 1122, Marion, NC 28752

Section 4.3. Nomination. Nomination for election to the Board of Directors shall be made from the floor at the first meeting of the Members. After the first election of directors, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4.4. Election. Except as provided in Section 4.6, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4.5. Term of Office. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At the first annual meeting of the Members following the relinquishment of Declarant control as set forth in Section 3.7 of the Bylaws, the Members shall elect one (1) Member of the Board of Directors for a term of three (3) years, who shall be the person receiving the largest number of votes, and one (1) Member of the Board of Directors for a term of two (2) years, who shall be the person receiving the second largest number of votes, and one (1) Member of the Board of Directors for a term of one (1) year, who shall be the person receiving the third largest number of votes. Following the first annual election after the relinquishment of Declarant control, at all annual elections thereafter, a director shall be elected by Members to succeed that director whose term then expires. Nothing herein contained shall be construed to prevent the election of a director to succeed himself.

Section 4.6. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the un-expired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the director.

Section 4.7. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE 5

MEETINGS OF DIRECTORS

Section 5.1. Regular Meetings. Meetings of the Board of Directors shall be held on a regular basis as often as the Board sees fit, but no less often than annually, on such days and at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 5.2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 5.3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 5.4. Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5.5. Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 5.6. Liability of the Board. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The Owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

ARTICLE 6

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 6.1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Areas and facilities, including but not limited to the Amenity Area, the Street Lights, Entrance Monuments, Piers, Boat-slips, Public Roads (prior to acceptance by a governmental agency), and Parking Area and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of a Member, including the rights to use the Amenity Area, Piers and Boat-slips (and all improvements thereon) during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a

period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties;

(f) employ attorneys to represent the Association when deemed necessary;

(g) grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across the Common Areas without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Property;

(h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient;

(i) do anything necessary or desirable, including, but not limited to, establishing any rules or regulations which the Association deems necessary to carry out the purposes of the Association as set forth herein or as permitted by law;

(j) enforce the provisions of the Declaration and any one or more Amendments or Supplementary Declaration and any rules or regulations made hereunder or there under and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessment against any Owner for violation of such provisions, rules or regulations pursuant to the provisions of the Declaration; and

(k) to levy assessments as more particularly set forth in the Declaration.

Section 6.2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in

writing by Members entitles to at least one-third (1/3) of the votes appurtenant to the Lots;

(b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration:

(1) fix the amount of the Annual Assessment, Supplemental Assessment, Special Assessment, Special Individual Assessment, Boat-slip Assessment, Supplemental Boat-slip Assessment, and Special Boat-slip Assessment;

(2) send written notice of each assessment to every Owner subject thereto before its due date; and

(3) foreclosure the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. (A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states as assessment has been paid, such certificate shall be conclusive evidence of such payment);

(e) procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Association, and to divide appropriate portions of such related costs between the applicable assessments described in the Declaration;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) cause the Common Areas to be maintained, and if damaged, to replace or repair such Common Areas (and any improvements located thereon) as they see fit.

ARTICLE 7

OFFICERS AND THEIR DUTIES

Section 7.1. Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may elect from time to

time by resolution create.

Section 7.2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 7.3. Term. Each officer of the Association shall be elected annually by the Board and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or successor is elected and qualifies.

Section 7.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 7.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

Section 7.8. Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 7.9. Duties. The duties of the officers are as follows:
President

(a) The President shall be the principal executive officer of the Association, and subject to the control of the Board, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instrument and shall co-sign all checks and promissory notes.

Vice-President

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(b) The Vice-President shall act in the place instead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board and of the Members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of accounts, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE 8

COMMITTEES

The Association shall appoint a Nomination Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE 9

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE 10

ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association the Annual Assessment, Supplemental Annual Assessment, Special Assessment and Special Individual Assessment, and each Owner of a Boat-slip Lot is obligated to pay to the Association the Boat-slip Assessment, Supplemental Boat-slip Assessment and Special Boat-slip Assessment, as defined in the Declaration. Any assessments (including but not limited to Special Individual Assessments) which are not paid when due shall be delinquent. If an assessment is not paid by its due date, as set forth in the Declaration, the assessment shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less, plus such late charge as may be established by the Board, and the Association may bring an action at law against the Member personally obligated to pay the same. The late charges, costs of collection and reasonable attorneys' fee related to any such action shall be added to the amount of such assessment, all in accordance with the provisions of the Declaration. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Property.

ARTICLE 11

COPORATE SEAL

The Association shall a seal in circular form having within its circumference the words BEAR CLIFF OWNERS ASSOCIATION, INC.

ARTICLE 12

AMENDMENTS

Section 12.1. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy.

Notwithstanding anything in this Section 12.1 to the contrary, the Class B Member may at its option amend these Bylaws without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause these Bylaws to comply with the requirements of the FHA, VA, Federal National Mortgage Association or similar agency.

Section 12.2. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in use of any conflict between the

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Declaration and these Bylaws, the Declaration shall control.

ARTICLE 13

MISCELLANEOUS

The fiscal year of the Association shall be the calendar year and shall begin on the first (1st) day of January and end on the thirty first (31st) day of December of every year, except that the first year shall begin on the date of incorporation.

ARTICLE 14

INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified maybe entitled under any statute, bylaw, agreement, vote of Members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administration of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent or another corporation, partnership, joint venture, trust or other enterprises against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other

enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article 14, or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable State or Federal law.

EXHIBIT C
DECLARATION FOR BEAR CLIFF
EROSION CONTROL PRACTICES

EROSION CONTROL

Each owner and Approved Builder shall, be responsible for causing the following minimum erosion control practices to be implemented and maintained throughout the course of all earth disturbing operations until the time of final seeding:

a. Roadway and Homesite Construction Entrance

Prior to the start of any earth disturbing operation, stone construction entrance shall be installed on the site (the "Construction Entrance"). The Construction Entrance shall (i) if possible, be installed in the same location as the property driveway so as to minimize the amount of disturbed area; (ii) extend a minimum of 50 feet from an existing roadway; and (iii) installed, preserved and replaced, if necessary, in accordance with the standards more particularly set forth on Page 2 of this Exhibit C.

b. Silt Control Devices

Prior to the start of any earth disturbing operation, diversion ditch and rock check dam shall be constructed and maintained on the building site (collectively "Silt Control Devices"). The Silt Control Devices shall be located at the boundary of the estimated disturbed area s set forth particularly on Page 3 of this Exhibit and shall be constructed, preserved and replaced, if necessary, in accordance with standards set forth on Page 4 of this Exhibit.

The foregoing Certificate(s) of Amy & Gregory State of North Carolina County of McDowell

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof, _____ Notary(ies) Public
By Patricia A. Reel REGISTER OF DEEDS FOR McDOWELL COUNTY
Josia B. Hampton Deputy / Assistant - Register of Deeds.