

BK012513PG01588

WAKE COUNTY, NC 435
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
04/25/2007 AT 13:55:47

BOOK:012513 PAGE:01588 - 01597

Type Of Instrument: First Amendment To Master Declaration
Prepared By and Hold For: Kenneth L. Eagle

**FIRST AMENDMENT
TO
MASTER DECLARATION
FOR
SOUTH LAKES**

THIS **FIRST AMENDMENT TO MASTER DECLARATION FOR SOUTH LAKES**, referred to herein as the "First Amendment", is made this 25th day of April, 2007, by **IPG SOUTH LAKES LLC**, a North Carolina limited liability company, also referred to herein as "Declarant", and is acknowledged and joined in by **PRESERVATION HOMES LLC**, a North Carolina limited liability company, also referred to herein as "Preservation", South Lakes Investors LLC and Reedy Creek Investments LLC, each a North Carolina limited liability company, individually and together also referred to herein as "Beneficiary", and Kenneth L. Eagle and David S. Morris, individually and together also referred to herein as "Trustee".

BACKGROUND

1. Declarant is the "Declarant" under that certain "Master Declaration For South Lakes" recorded in the Wake County, North Carolina Registry in Book 12431, Page 1680, referred to herein as the "Declaration", which is incorporated by reference as if fully set out herein.

2. Declarant is the owner of that portion of the "Properties" (as defined in the Declaration) described on **Exhibit A** attached hereto and incorporated by reference.

3. Preservation is the owner of that portion of the "Properties" (as defined in the Declaration) described on **Exhibit B** attached hereto and incorporated by reference.

4. Pursuant to Article XV, Section 1 of the Declaration, Declarant currently has the right to amend the Declaration unilaterally, and in its sole discretion, without the consent, approval, or joinder of any Owner, the Association, or any other Person (as the terms "Owner", "Association", and "Person" are defined in the Declaration).

5. Beneficiary and Trustee are the "Beneficiary" and "Trustee", respectively, in a Deed of Trust recorded in the Wake County, North Carolina Registry in Book 12409, Page 1078, also referred to herein as the "Deed of Trust", which is incorporated by reference as if fully set out herein.

6. Declarant desires to amend the Declaration as set out herein, and has asked Preservation to join in the execution of this First Amendment so that there will be notice of this First Amendment in the chain of title for the portion of the Properties owned by Preservation, and Declarant has asked Beneficiary and Trustee to join in the execution of this First Amendment to make it clear that the Deed of Trust will be subordinated to this First Amendment to the extent, but only to the extent, described herein.

FIRST AMENDMENT

NOW, THEREFORE, in consideration of the foregoing, and the mutual desire of the parties to amend the Declaration and/or join in the execution of this First Amendment to the Declaration, the Declaration is amended as follows:

1. Article I, Section 27 of the Declaration is rewritten to read as follows:

"Section 27. 'Development Period' is defined as the period of time beginning at the time of the recording of the Declaration in the Registry and, except as otherwise provided in this definition, ending at 5:00 p.m. on the date on which the last of the following occurs:

- (a) the last date on which the Declarant owns any Lot or Development Parcel in the Properties;
- (b) the date of release of the last bond (or letter of credit or other, similar financial guarantee) posted by Declarant with the City in connection with Declarant's development of any part of the Properties;
- (c) the date on which a certificate of occupancy is issued for initial construction of a Dwelling on the last Lot or Development Parcel for which a certificate of occupancy has not been issued previously; or
- (d) December 31, 2036.

Provided, however, at any time Declarant may terminate the Development Period by recording a termination instrument in the Registry. The Development Period also shall include any periods of time after the all of the foregoing matters have occurred or been completed during which Declarant is conducting any activity within the Properties that is required by Legal Requirements or for Declarant to fulfill any obligation to the City, the Association, a Builder or any Owner with respect to any portion of the Properties. In the event of an assignment of Declarant rights, with respect to the rights assigned the Development Period shall remain in full force and effect through the applicable periods of time as they relate to the assignee rather than the original Declarant hereunder. Any approvals granted by the Declarant under the Declaration shall be binding upon all successors to Declarant's

approval authority. If the Development Period ends at any time because Declarant no longer owns any portion of the Properties, and thereafter Declarant annexes to the Declaration Additional Property owned by Declarant, the Development Period is reinstated and thereafter shall continue until terminated in accordance with the events of termination set out in this definition.”

2. Article XV, Section 1 of the Declaration is rewritten to read as follows:

“Section 1. Amendment by Declarant. In addition to specific amendment rights, if any, granted elsewhere in the Declaration, during the Development Period Declarant may unilaterally, and in its sole discretion, without the consent, approval, or joinder of any Owner, the Association, or any other Person (except to the extent that Legal Requirements may require the joinder of a governmental entity), and without any meeting of the Association, amend the Declaration for any purpose that is not prohibited by the Act or other Legal Requirement. Declarant may record any such amendment or may record an amended and restated version of the Declaration that incorporates any such amendment. Any amendment of the Declaration by the Declarant shall be effective upon the later of the date of its recording in the Registry or the effective date specified therein.”

3. Article XX, Section 2 of the Declaration is rewritten to read as follows:

“Section 2. Assignment. Declarant specifically reserves the right, in Declarant's sole discretion, to assign temporarily or permanently any or all of its rights, privileges, powers and/or obligations under the Declaration or under any Supplemental Declaration or Subdivision Declaration, including assignment of any or all of same as security for any obligation of Declarant to one or more Persons. Except as otherwise provided in this Section, no such assignment shall be effective unless (i) it is in writing, (ii) it is executed by the assignee, (iii) it is recorded in the Registry or other governmental entity office required under Legal Requirements, with the date of recording or such later effective date stated in the assignment being the effective date thereof (and the terms of the recorded assignment shall be conclusive and binding as to the matters assigned), and (iv) if it purports to assign any obligations of the Declarant to complete initial capital improvements within the Subdivision required by a Subdivision Plan or other Legal Requirements, it describes the specific obligations assigned.

Upon Declarant's request, the Association shall execute any such assignment by Declarant to the Association, but Declarant may not assign to the Association any obligation to complete initial capital improvements within the Subdivision required by a Subdivision Plan or other Legal Requirements. With respect to assignments described in any instrument under which Declarant rights specifically or impliedly are given as security for an obligation of Declarant, the terms of such instrument shall control over the provisions of this Section, including execution and recording requirements and the matters assigned thereby. Upon any completed foreclosure sale pursuant to any instrument under which the Declarant rights become security for an obligation, or the recording or filing of a deed or other instrument in lieu of foreclosure, the purchaser at the foreclosure sale, or the grantee under any deed or other instrument in lieu of foreclosure, shall receive the rights, privileges, powers and/or obligations that were assigned as security for the Declarant's obligation, unless the foreclosure documents or conveying document specifically exclude such rights, privileges, powers and/or obligations.

Notwithstanding anything to the contrary in this Section, with respect to Common Property, Stormwater Control Measures and utilities in the Subdivision, including all permits issued by any governmental entity in connection therewith, Declarant may assign to the Association, and the Association shall accept assignment of and,

with respect thereto, execute the assignment document and any other documents deemed necessary by Declarant to effect such assignment, of any or all of the following in whole or in part with respect to the Common Property, Stormwater Control Measures, and/or utilities in the Subdivision: all permits, together with all rights, duties, liabilities, obligations and indemnities of the Declarant under all permits, issued by any governmental entity or any provider of utilities to any part or all of the Subdivision, and/or all rights, duties, liabilities, obligations, and indemnities of the Declarant under all agreements between the Declarant and any governmental entity or any provider of utilities to any part or all of the Subdivision. Provided, however, and notwithstanding the foregoing, Declarant may not assign to the Association any of its obligations or liabilities or indemnities directly related to the improvements for the initial installation of Common Property, Stormwater Control Measures and/or utilities and/or publicly dedicated streets in the Subdivision as required by a governmental entity or a utility provider for development of the Properties in accordance with a Subdivision Plan, including warranties for construction of such improvements, if any, required by any governmental entity or utility provider prior to its acceptance of maintenance responsibility, if any, for such improvements (it being recognized that one or more of such improvements may not be of a type that are accepted for maintenance by a governmental entity or utility provider). Declarant shall have the authority to resolve any dispute as to what permits, rights, duties, liabilities, obligations and/or indemnities can be assigned to the Association pursuant to this paragraph."

Except as amended by this First Amendment, the Declaration shall be and remain in full force and effect as originally recorded in the Wake County, North Carolina Registry. This First Amendment shall be effective upon its recording in the Wake County, North Carolina Registry.

Beneficiary and Trustee join in the execution of this First Amendment for the sole purpose of acknowledging and agreeing that the Deed of Trust shall be subordinate to this First Amendment to the extent (and only to the extent) that, upon any foreclosure of the Deed of Trust or conveyance or deed or other proceeding or remedy in lieu of foreclosure, the Properties shall remain subject to the Declaration, as amended by this First Amendment, and the Declaration, as amended by this First Amendment, shall survive such foreclosure, conveyance, deed, proceeding or remedy in its entirety and not be extinguished in whole or in part by such foreclosure, conveyance, deed, proceeding or remedy. Provided, however, the Deed of Trust is not subordinated to this First Amendment or the Declaration for any other purpose, and each of South Lakes Investors LLC and Reedy Creek Investments LLC, as the Beneficiary under the Deed of Trust and current holder of the indebtedness and other obligations secured by the liens of the Deed of Trust, specifically reserves the priority of the Deed of Trust over any lien for unpaid assessments and other charges under the Declaration, as amended by this First Amendment, and specifically reserves all of its rights under the Deed of Trust, including the right to become the Declarant under the Declaration, as amended by this First Amendment, in the event it is the purchaser of the portion of the Property sold at any foreclosure or conveyed or transferred to South Lakes Investors LLC or Reedy Creek Investments LLC by deed or other instrument, proceeding, or remedy in lieu of foreclosure.

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IN WITNESS WHEREOF, Declarant, Preservation, Beneficiary and Trustee have each caused the First Amendment to be executed in legal and binding form, all on the dates indicated in the respective acknowledgments of such executions, the last date of which shall be the date of execution of this First Amendment and shall be inserted in the first paragraph hereof.

IPG SOUTH LAKES LLC
a North Carolina Limited Liability Company

By: Impact Design-Build, Inc., Manager

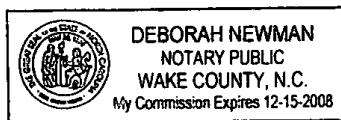
By: [Signature]
Colen E. Davidson, Jr., President

State of North Carolina, County of Wake

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Colen E. Davidson, Jr.

Date: 4-25-07

(affix stamp or seal here)



Deborah Newman
Notary Public
Printed/Typed Name: Deborah Newman
My Commission Expires: 12-15-2008

PRESERVATION HOMES, LLC

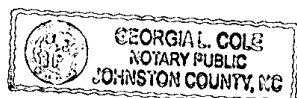
By: [Signature]
Thomas R. Bland, Managing Member and/or Manager

State of North Carolina, County of Wake

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Thomas R. Bland

Date: April 24, 2007

(affix stamp or seal here)



Georgia L. Cole
Notary Public
Printed/Typed Name: Georgia L. Cole
My Commission Expires: 12-21-2010

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SOUTH LAKES INVESTORS LLC,
a North Carolina limited liability company

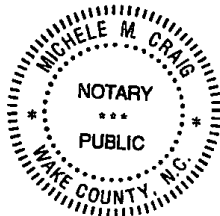
By: Donald R. Parker
Donald R. Parker, Manager

State of North Carolina, County of Wake

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Donald R. Parker

Date: 4.24.07

(affix stamp or seal here)



Michele M. Craig
Notary Public
Printed/Typed Name: Michele M. Craig
My Commission Expires: 3.30.09

REEDY CREEK INVESTMENTS LLC,
a North Carolina limited liability company

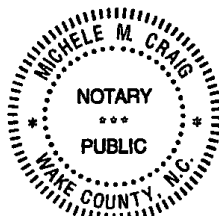
By: Donald R. Parker
Donald R. Parker, Manager

State of North Carolina, County of Wake

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Donald R. Parker

Date: 4.24.07

(affix stamp or seal here)



Michele M. Craig
Notary Public
Printed/Typed Name: Michele M. Craig
My Commission Expires: 3.30.09

(keagle\south lakes\dec 1am1)

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Kenneth L. Eagle
Kenneth L. Eagle, Trustee

David S. Morris
David S. Morris, Trustee

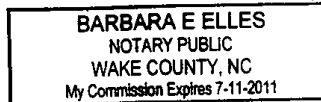
State of North Carolina, County of Wake

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: Kenneth L. Eagle.

Date: April 24, 2007

Barbara E. Elles
Notary Public
Printed/Typed Name: Barbara E. Elles
My Commission Expires: 7-11-11

(affix stamp or seal here)



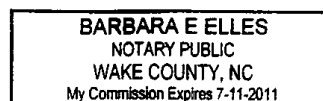
State of North Carolina, County of Wake

I certify that the following person personally appeared before me this day and acknowledged to me that he signed the foregoing document: David S. Morris.

Date: April 24, 2007

Barbara E. Elles
Notary Public
Printed/Typed Name: Barbara E. Elles
My Commission Expires: 7-11-11

(affix stamp or seal here)



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**EXHIBIT A
DESCRIPTION OF PORTION OF
THE PROPERTIES
OWNED BY IPG SOUTH LAKES LLC**

LYING AND BEING in the Town of Fuquay-Varina, Wake County, North Carolina, in the South Lakes Development, and being more particularly described as follows:

ALL OF THE FOLLOWING, EXCEPT FOR THOSE LOTS OWNED BY PRESERVATION HOMES, LLC AS DESCRIBED ON **EXHIBIT B**:

A. All of the property as shown on a plat by Michael E. Dickerson, Professional Land Surveyor, of Withers & Ravenel, Inc., entitled "SOUTH LAKES PARCEL SF-3C, LOTS 145-173, FINAL SUBDIVISION PLAT", dated November 9, 2006 and recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Pages 453 through 455, reference being made to said plat for a more complete description.

B. All of the property as shown on a plat by Michael E. Dickerson, Professional Land Surveyor, of Withers & Ravenel, Inc., entitled "SOUTH LAKES PARCEL SF-1A/2A: LOTS 2-55 & 231, FINAL SUBDIVISION PLAT", dated January 9, 2007 and recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Pages 456 through 458, reference being made to said plat for a more complete description.

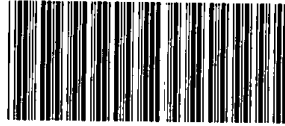
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EXHIBIT B
DESCRIPTION OF PORTION OF
THE PROPERTIES
OWNED BY PRESERVATION HOMES, LLC

LYING AND BEING in the Town of Fuquay-Varina, Wake County, North Carolina, in the South Lakes Development, and being more particularly described as follows:

LOTS NOS. 40 through 55, inclusive, and Lot No. 231, of South Lakes, as said Lots are shown on a plat by Michael E. Dickerson, Professional Land Surveyor, of Withers & Ravenel, Inc., entitled "SOUTH LAKES PARCEL SF-1A/2A: LOTS 2-55 & 231, FINAL SUBDIVISION PLAT", dated January 9, 2007 and recorded in the Wake County, North Carolina Registry in Book of Maps 2007, Pages 456 through 458, reference being made to said plat for a more complete description.



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**Wake County Register of Deeds
Laura M. Riddick
Register of Deeds**

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