

WAKE COUNTY, NC 125
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
10/31/2008 AT 10:45:17

BOOK:013289 PAGE:02071 - 02073

Drawn by and HOLD FOR: Moore & Alphin, PLLC (ap) (Box 155)

**THIRD AMENDMENT TO
DECLARATION OF CONDOMINIUM
FOR COTTAGES AT BRIER CREEK, A CONDOMINIUM**

This Third Amendment To Declaration Of Condominium For Cottages At Brier Creek, A Condominium (hereinafter “Third Amendment”) is made as of the date set forth in the notary acknowledgment below, by **TOLL AT BRIER CREEK LIMITED PARTNERSHIP**, a North Carolina limited partnership (“Declarant”).

RECITALS

Declarant has previously executed and recorded in Book 12967, Page 2163, Wake County Registry, that certain Declaration Of Condominium For Cottages At Brier Creek, A Condominium (the “Original Declaration”), which Declarant has previously amended by that certain First Amendment To Declaration Of Condominium For Cottages At Brier Creek, A Condominium [Building 14; Amenity], recorded in Book 13179, Page 1115, Wake County Registry (the “First Amendment”), and further amended by that Second Amendment To Declaration Of Condominium For Cottages At Brier Creek, A Condominium, recorded in Book 13265, Page 703, Wake County Registry (the Original Declaration and amendments thereto being herein referred to individually and collectively as the “Declaration”). Any capitalized terms used in this Third Amendment but not defined herein shall have the meaning of such term as set forth in the Declaration.

Article XIV of the Declaration, entitled “Amendment To And Supplement Of Declaration”, permits Declarant to amend the Declaration without the consent of any other Owner if the amendment is “to correct an omission or to make amendments of a nonmaterial nature, herein defined as amendments which do not impair or prejudice any rights of any Owner”.

A lender making a loan to a buyer of a Unit in the Condominium has advised Declarant to amend the Declaration to more clearly set forth Declarant’s intentions with regard to the phasing of the Condominium.

THEREFORE, pursuant to Article XIV of the Declaration, Declarant does hereby amend the Declaration as follows:

1. Section 1.10 of the Declaration, entitled "Condominium", is amended by adding the following new sentence at the end thereof: "Declarant currently intends to develop, construct and subject the Condominiums in up to fourteen (14) separate phases, each phase containing one (1) Building and Common Elements associated therewith, and each Building containing a maximum of twenty-five (25) Units. Phase 1 of the Condominium was created and subjected to the Declaration by filing of the Original Declaration and of the plat and plans for Phase 1, and Phase 2, containing one (1) Building containing twenty-five Units was made part of the Condominium and subjected to the Declaration by the Second Amendment and the plat and plans for Phase 2. Future phases will be created and subjected to the Declaration in the manner set forth in Section 2.2 of the Declaration."

2. Except as specifically amended by this Third Amendment, the Declaration, as previously amended, remains unchanged and in full force and effect.

N WITNESS WHEREOF, Declarant has caused this Third Amendment to be executed, as of the date set forth in the notary acknowledgment below.

TOLL AT BRIER CREEK LIMITED PARTNERSHIP

By: Toll NC GP Corp., its General Partner

By: [Signature]
Robert A. Schooley
Vice President

STATE OF NORTH CAROLINA – COUNTY OF WAKE:

I, the undersigned, a Notary Public for WAKE County, North Carolina, certify that Robert A. Schooley personally appeared before me and acknowledged that he is an Assistant Vice President of TOLL NC GP CORP., a North Carolina corporation and a General Partner of TOLL AT BRIER CREEK LIMITED PARTNERSHIP, a North Carolina limited partnership, and that, in such capacity, he signed the within and foregoing Third Amendment on behalf of said corporation as General Partner of said limited partnership, by their authority duly given.

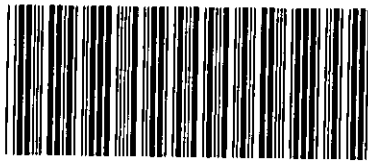
Witness my hand and official stamp or seal, this the 31 day of October, 2008.

(Stamp or Seal)

[Signature]
Notary Public
Printed Name: JANET L. RAUSCHENBACH
My commission expires: MAY 16, 2009

RECORD OF POOR QUALITY
DUE TO CONDITION OF
ORIGINAL DOCUMENT





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

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