

WAKE COUNTY, NC 38
 CHARLES P. GILLIAM
 REGISTER OF DEEDS
 PRESENTED & RECORDED ON
 08/21/2019 11:11:18

BOOK:017547 PAGE:01720 - 01726

Prepared by and Mail to:

Wyrick Robbins Yates & Ponton LLP (PKH)
 4101 Lake Boone Trail, Suite 300
 Raleigh, NC 27607

INDEXING NOTES:

This amendment amends the Master Declaration of Protective Covenants for Tryon recorded in Book 16799, Page 1989, Wake County Registry.

**FIRST AMENDMENT TO MASTER
 DECLARATION OF PROTECTIVE COVENANTS
 FOR TRYON**

THIS FIRST AMENDMENT TO MASTER DECLARATION OF PROTECTIVE COVENANTS FOR TRYON (the "**First Amendment**") is made this 21st day of August, 2019 (the "**Effective Date**"), by TRYON WEST HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation (the "**Association**") and TRYON INVESTMENT PARTNERS LLC, a North Carolina limited liability company (the "**Declarant**").

W I T N E S S E T H:

WHEREAS, Declarant, as initial owner, established that certain Master Declaration of Protective Covenants for Tryon, as recorded in Book 16799, Page 1989, Wake County Registry (as thereafter amended or modified from time to time, the "**Declaration**"); and

WHEREAS, pursuant to Article II, Section 6 of the Declaration, the Declarant reserves the unilateral right impose additional and different covenants and restrictions on certain distinct phases, sections of subdivisions within the Subdivision which may have varying commercial or residential uses, Lot sizes, types of Dwellings, marketing considerations and/or other differences; and

WHEREAS, Declarant desires to amend the Declaration to permit development of a portion of the Subdivision as a townhome community to be known as Carraway Gardens at Tryon with approximately 51 townhome units, as set forth and more particularly described in that certain plat entitled "Carraway Gardens at Tryon Phases 7 and 9", as recorded in the Wake County Registry, Book BM2019, Pages 1182-1187 (the "**Townhome Plat**"), to be developed under a common scheme and general plan for its improvement and maintenance in accordance with the North Carolina Planned Community Act (N.C. Gen. Stat. Chap. 47F);

NOW, THEREFORE, pursuant to the powers granted to Declarant under the Declaration, Declarant hereby declares that the Declaration is amended as follows:

1. The recitals set out above are true, accurate, and are incorporated herein by reference. The capitalized terms which are not defined herein shall have the same meaning as otherwise set out in the Declaration.

2. The following terms are hereby incorporated as "Definitions" under Article 1 of the Declaration:

Single Family Lot. "Single Family Lot" means any detached Lot within the portion of the Subdivision designated for single family development on plats of the Property and recorded in the Registry.

Single Family Lot Owner. "Single Family Lot Owner" means the Owner of a Single Family Lot.

Townhome Lot. "Townhome Lot" means any attached Lot within the portion of the Subdivision designated for townhome development on plats of the Subdivision and recorded in the Registry.

Townhome Lot Owner. "Townhome Lot Owner" means the Owner of a Townhome Lot.

Townhome Property. "Townhome Property" means the portion(s) of the Subdivision designated for townhome development on plats of the Subdivision and recorded in the Registry.

3. The following sentence shall be added to Article III, Section 1 of the Declaration as follows:

"To the extent the Board is comprised of more than one (1) individual, as permitted in the Governing Documents, members of the Board shall be appointed proportionately as between Single Family Lot Owners and Townhome Lot Owners pursuant to the aggregate allocation of voting interests as set forth in Article V, Section 1 herein."

4. The following subsection (hh) to Article III, Section 3 of the Declaration shall be added as follows:

"(hh) In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Townhome Lot, which is subject to assessment hereunder as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces [with the exception of entry doors (including garage doors) and their appurtenant hardware and all of which shall be maintained, repaired and replaced by the Townhome Lot Owner], exterior railings, trees, landscaping, grass, fencing, walks, driveways (as hereinafter limited). Such maintenance as to the Townhome Lots shall also include the mowing and trimming of grass (including the grass in the rear yard of each Townhome Lot); provided, however, each Townhome Lot Owner is encouraged to water the grass, plants, trees and landscaping on or immediately adjacent to its Townhome Lot in areas that are not otherwise irrigated. Such lawn maintenance shall be provided as a part of the grounds contract for the Townhome Property by a lawn company selected by the Board. Maintenance of the driveway constructed by the Declarant on each Townhome Lot shall extend only to the exterior face of the garage door, beyond which such maintenance, repair and replacement shall be the responsibility of such Townhome Lot Owner. The Association shall maintain any private sewer main(s) located in the alleyways or other Common Area to which a sewer line servicing one or more Townhome Lots is connected, provided that the Townhome Lot Owner of each Townhome Lot shall be responsible for all repair, replacement and clean out of sewer lines and facilities located upon such Townhome Lot from the clean-out to (and including the lines and facilities servicing) the townhome unit; provided however, the City of Raleigh shall be responsible for all maintenance responsibilities for any sewer main located in the right-of-way of any publicly dedicated streets located within the Subdivision. Other than blowing associated with landscaping maintenance, exterior maintenance required by the Association hereunder shall not include the cleaning of patios, decks, walkways, stoops or driveways on the Townhome Lots, all of which shall be the responsibility of the Townhome Lot Owner. The determination of the need, quality, extent and cost of such maintenance and repairs shall be made by the Board of the

Association, which determination shall be reasonable and made upon consistent and non-arbitrary principles adopted by the Board.”

5. Article V, Section 2, subsection (a) is hereby deleted in its entirety and replaced with the following:

“Class A Members are all Owners of Lots, except for the Class B Members and Class C Members. With respect to Association matters on which Class A Members are eligible to vote, a Class A Member owning a Single Family Lot is allocated one (1) vote for each Single Family Lot owned by the Class A Member, and a Class A Member owning a Townhome Lot is allocated two-thirds (2/3) of a vote for each Townhome Lot owned by the Class A Member; provided, however, only one (1) Class A Member vote is allocated for each Single Family Lot and only two-thirds (2/3) of a vote is allocated for each Townhome Lot, regardless of the number of owners thereof. 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 their Lot shall be exercised as they, amount themselves, determine, but fractional voting shall not be allowed.”

6. The following new second paragraph shall be added to Article VI, Section 5 of the Declaration as follows:

“Notwithstanding the foregoing, annual assessments levied against Townhome Lot Owners are not required to be equivalent to those levied against any Single Family Lot Owner. The annual assessment for each Townhome Lot owned by a Class A Member for the first assessment year shall be a maximum of \$2,172.00 (with \$93.00/month representing general Subdivision assessments due for all Lots, and \$88.00/month representing additional assessments due only for Townhome Lots); provided, however, that if the first assessment year shall be fewer than twelve (12) months, the foregoing amounts shall be proportionately reduced. The annual assessment for each Townhome Lot owned by a Class B Member shall be zero; provided, however, Declarant shall be obligated to fund any budget deficit as provided herein. After the initial six (6) months of ownership, the annual assessment for each Townhome Lot owned by a Class C Member shall be equal to Fifty Percent (50%) of the annual assessment for any Townhome Lot owned by a Class A Member. From and after the first year of annual assessments on the Townhome Property, the Board shall adopt a proposed budget and fix the amount of the annual assessments as to each Townhome Lot for subsequent years as provided for above.”

7. The following subsection (f) to Article VI, Section 8 of the Declaration shall be added as follows:

“(f) Costs for any construction, reconstruction, repair or replacement of capital improvements and related fixtures and personal property in connection with the maintenance of the Townhome Lots and any private roadways servicing same; provided, however, if in any fiscal year, special assessments applicable to the Townhome Lots as provided for herein which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without the vote or written consent of a majority of Members who are Townhome Lot Owners.”

8. The following Section 22 of Article IX of the Declaration shall be added as follows:

“**Section 22. Cluster Mailboxes.** Declarant may install one (1) or more cluster mailboxes with a mailbox assigned to each Townhome Lot. The Association shall be responsible for the maintenance and repair of the cluster mailboxes and the costs of such maintenance and repair shall be a Common Expense allocated to the Townhome Lot Owners. Declarant reserves the right to install such cluster mailboxes on any Townhome Lot or other portion of the Townhome Property, and hereby reserves a perpetual easement across any such Townhome Lot upon which such cluster mailboxes are

installed for the repair and maintenance of the cluster mailboxes as required hereunder. If any cluster mailboxes are installed upon a Townhome Lot, an easement benefitting the Declarant and/or the Association (as applicable) for such improvements and for the repair and maintenance for improvements shall exist in perpetuity thereafter.”

9. The following Section 5 of Article XIII of the Declaration shall be added as follows:

“Section 5. Maintenance by Townhome Lot Owners. Except as otherwise provided for herein, all repair, maintenance and replacement of the improvements and utilities located upon a Townhome Lot Owner’s Lot shall be the responsibility of the Townhome Lot Owner thereof, including all replacement and repair necessitated by fire or other casualty against which the Townhome Lot Owner is required to maintain insurance under the provisions hereof. Without limiting the generality of the foregoing, and subject to the requirements of Article VIII and IX of this Declaration, a Townhome Lot Owner shall be responsible for replacement and reconstruction of improvements on his or her Townhome Lot required because of damage or destruction by fire or other casualty. Each Townhome Lot Owner shall maintain, repair and replace, at his or her expense, all exterior light fixtures attached to the Townhome Lot Owner’s unit and all interior portions of the improvements which shall need repair, including bathroom and kitchen fixtures, light fixtures or other electrical or plumbing equipment, utility pipes, lines and fittings serving the Townhome Lot. Further, each Townhome Lot Owner shall repair, maintain, and replace, at his or her expense, the heating and air condition systems servicing said Townhome Lot Owner’s unit, whether located on the Townhome Lot Owner’s Lot or in the Common Area adjacent to the Townhome Lot. Each Townhome Lot Owner shall be responsible for interior pest control, and each Townhome Lot Owner is encouraged to water the grass, plants, trees and landscaping on or immediately adjacent to its Townhome Lot in areas that are not otherwise irrigated.”

10. Except as hereinabove amended, all other provisions of the Declaration shall remain in full force and effect.

11. The Declarant, by execution hereof, hereby consents to this First Amendment and confirms the facts contained herein.

12. The undersigned officers of the Declarant and the Association have each been authorized to execute this First Amendment by all appropriate and necessary action taken by such parties.

[THE FOLLOWING PAGES ARE THE SIGNATURE PAGES]

IN WITNESS WHEREOF, the undersigned, on behalf of the Association, has executed this First Amendment on the date first above set forth.

ASSOCIATION:

**TRYON WEST HOMEOWNERS ASSOCIATION,
INC.,**

a North Carolina non-profit corporation

By: _____

Name: J. G. Loftin, Jr.

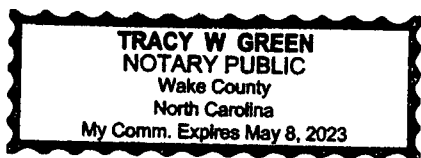
Title: Director

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: J. G. Loftin, Jr., Director of **Tryon West Homeowners Association, Inc.**, a North Carolina non-profit corporation.

Date: August 20th, 2019.



Tracy W Green
Notary Signature

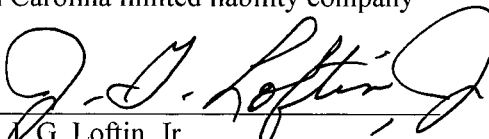
Tracy W Green
Notary Printed Name

My Commission Expires: 5-8-2023

IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, has executed this First Amendment on the date first above set forth.

DECLARANT:

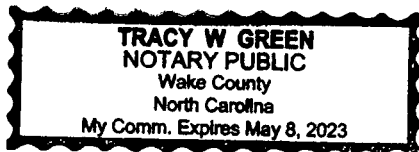
TRYON INVESTMENT PARTNERS LLC
a North Carolina limited liability company

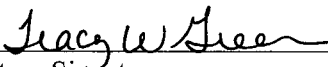
By: 
Name: J.G. Loftin, Jr.
Title: Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: J.G. Loftin, Jr., Manager of Tryon Investment Partners LLC, a North Carolina limited liability company.

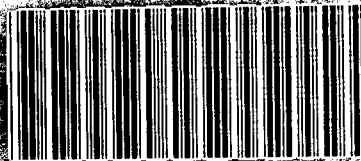
Date: August 20th, 2019.




Notary Signature

Tracy W Green
Notary Printed Name

My Commission Expires: 5-8-2023



BOOK: 017547 PAGE: 01720 - 01726



Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Charles P. Gilliam

Register of Deeds

Wake County Justice Center

300 South Salisbury Street, Suite 1700

Raleigh, NC 27601

☐ New Time Stamp

☐ \$25 Non-Standard Fee

☐ Additional Document Fee

☐ Additional Reference Fee

This Customer Group

_____ # of Excessive Entities

_____ # of Time Stamps Needed

This Document

7 # of Pages