

BK011502PG01201

WAKE COUNTY, NC 113
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
08/01/2005 AT 10:05:04

BOOK:011502 PAGE:01201 - 01207

Gaulle (CG)

STATE OF NORTH CAROLINA
COUNTY OF WAKE

SECOND AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
BANKS POINTE SUBDIVISION

This Second Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision, made this 25th day of May, 2005, by R. Kirk Leone Developer, Inc., formerly R. Kirk Leone Builder, Inc., which changed its name to R. Kirk Leone Developer, Inc. on January 4, 2005, a North Carolina corporation, with its principal office located in Wake County, North Carolina, hereinafter referred to as "Declarant", and Watkins Building, Inc., Peter A. Brewer Construction, Inc., Manning Homes, Inc., Reese Construction, LLC, and Joseph & Joseph, Inc., owners of lots in Banks Pointe Subdivision;

WITNESSETH:

WHEREAS, a Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision, Phase 1, Book of Maps 2004, Pages 722-724 was recorded in Book 10792, Page 1582, Wake County Registry; and

WHEREAS, a First Amendment to the Declaration was recorded in Book 10819, Page 47, Wake County Registry; and

WHEREAS, the R. Kirk Leone Developer, Inc. is the present owner of seven (7) lots in Banks Pointe, Book of Maps 2004, Page 722-724; and

WHEREAS, the other owners of lots identified herein constitute more than two-thirds (2/3) of the lots which are classified as Class A lots; and

WHEREAS, the parties to this Agreement constitute more than the required number of votes to amend the Covenants, Conditions and Restrictions of the Banks Pointe Subdivision; and

WHEREAS, the parties to this Agreement now desire to amend the Declaration, as follows:

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1. Article IX, Section 3, is deleted and the following is substituted in place thereof:

Section 3. BUILDING LOCATION. No building shall be located on any lot nearer than forty (40) feet to the front lot line or nearer than twenty-five (25) feet to any side street line.

There shall be a minimum of fifteen (15) feet setback from interior lot lines, provided that the minimum side setback shall be at least five (5) feet from an interior lot line. No side yard shall be required for a garage or other permitted accessory building located forty (40) feet or more from the minimum building setback line.

For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

2. There shall be added to Article X a new section as follows:

Section 6. ANNEXATION OF ADDITIONAL PROPERTY. The Declarant reserves the right to annex or add additional property whose owners shall have the same property rights and obligations as described in the Declaration of Covenants, Conditions and Restrictions as amended, by recording an instrument in writing subjecting such additional property to the Declaration of Covenants, Conditions and Restrictions, as amended.

Except for the amendments set forth above, all other provisions of the Declaration of Covenants, Conditions and Restrictions, as amended, shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties to this instrument have caused this amendment to be executed by its duly authorized officer the day and year first above written.

R. KIRK LEONE DEVELOPER, INC.

BY: 
R. Kirk Leone, President


WATKINS BUILDING, INC.

BY: 
President

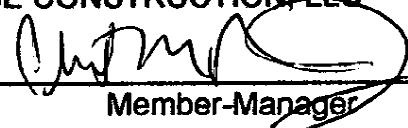
PETER A. BREWER CONSTRUCTION, INC.

BY: 
President

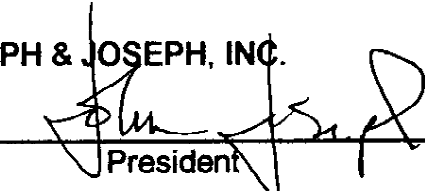
MANNING HOMES, INC.

BY: 
President

REESE CONSTRUCTION, LLC

BY: 
Member-Manager

JOSEPH & JOSEPH, INC.

BY: 
President

STATE OF NORTH CAROLINA
COUNTY OF WAKE

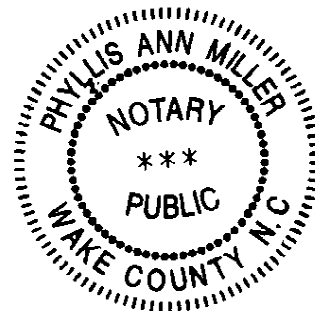
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I, the undersigned, a Notary Public of the County and State aforesaid, certify that R. Kirk Leone, personally came before me this day and acknowledged that he is President of R. Kirk Leone Developer, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as President and sealed with its corporate seal.

Witness my hand and official stamp or seal, this the 25th day of May, 2005.

Phyllis Ann Miller
Notary Public

My commission expires: 3/14/09



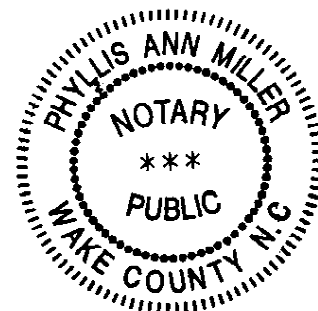
STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Richard Watkins personally came before me this day and acknowledged that he/she is President of Watkins Building, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him/her as President and sealed with its corporate seal.

Witness my hand and official stamp or seal, this the 25th day of May, 2005.

Phyllis Ann Miller
Notary Public

My commission expires: 3/14/09



STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned, a Notary Public of the County and State aforesaid, certify

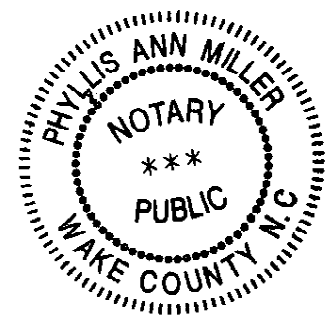
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that Peter A. Brewer personally came before me this day and acknowledged that he is President of Peter A. Brewer Construction, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as President and sealed with its corporate seal.

Witness my hand and official stamp or seal, this the 25th day of May, 2005.

Phyllis Ann Miller
Notary Public

My commission expires: 3/14/09



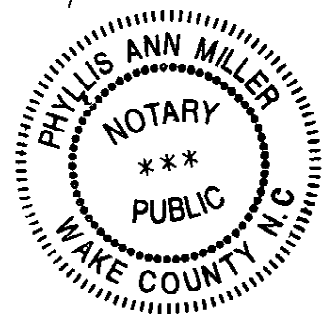
STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned, a Notary Public of the County and State aforesaid, certify that MARK Manning personally came before me this day and acknowledged that he/she is President of Manning Homes, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him/her as President and sealed with its corporate seal.

Witness my hand and official stamp or seal, this the 25th day of May, 2005.

Phyllis Ann Miller
Notary Public

My commission expires: 3/14/09



NORTH CAROLINA
WAKE COUNTY

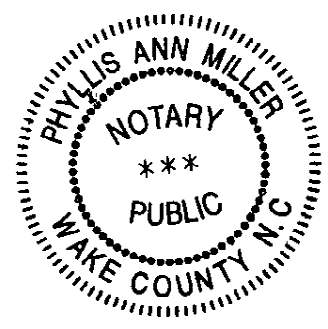
I, the undersigned, a Notary Public, do hereby certify that Clint Reece personally appeared before me this day and acknowledged that he/she is a

Member/Manager of Reese Construction, LLC, a North Carolina Limited Liability Company and further acknowledged the due execution of this instrument on behalf of the Limited Liability Company.

Witness my hand and official seal, this 25th day of May, 2005.

Phyllis Ann Miller
Notary Public

My Commission expires: 3/14/09



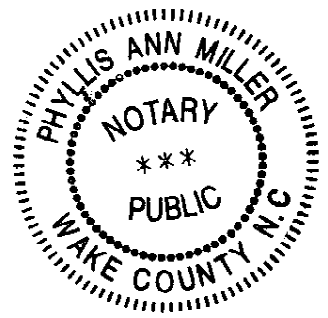
STATE OF NORTH CAROLINA
COUNTY OF WAKE

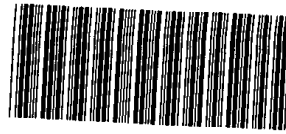
I, the undersigned, a Notary Public of the County and State aforesaid, certify that John Joseph personally came before me this day and acknowledged that he/she is President of Joseph & Joseph, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him/her as President and sealed with its corporate seal.

Witness my hand and official stamp or seal, this the 25th day of May, 2005.

Phyllis Ann Miller
Notary Public

My commission expires: 3/14/09





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Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



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

North Carolina – Wake County

The foregoing certificate 5 of Phyllis Ann Miller

_____ Notary(ies) Public 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.

Laura M. Riddick, Register of Deeds

By: George W. Paxon
Assistant/Deputy Register of Deeds

This Customer Group
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