



WHEREAS, on August 1, 2005 Declarant caused to be recorded a "Second Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 11502, Page 1201, Wake County Registry; and

WHEREAS, on November 22, 2006 Declarant caused to be recorded a "Third Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 12277, Page 2272, Wake County Registry; and

WHEREAS, on May 23, 2012, the Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision, caused to be recorded a "Fourth Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 14775, Page 1138, Wake County Registry; and

WHEREAS, on July 22, 2014, the Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision, caused to be recorded a "Fifth Amendment to Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision" in the office of the Register of Deeds of Wake County, North Carolina, in Book 15728, Page 506, Wake County Registry; and

WHEREAS, at least two-thirds (2/3) of the Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision, desire to further amend the Declaration; and

WHEREAS, Article X, Section 4, of the Declaration provides that the Declaration may be amended by two-thirds (2/3) of each class of members; and

WHEREAS, Class B membership having ceased and terminated not later than December 31, 2008, the Association has only Class A Membership; and

WHEREAS, this Sixth Amendment has been duly approved by the assent of more than two-thirds (2/3) of Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision, as required by Article X, Section 4 of the Declaration;

NOW THEREFORE, the undersigned, representing more than two-thirds (2/3) of Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision subject to the Declaration, do hereby declare that the following amendment to the Declaration shall be binding on all parties now having or later acquiring any right, title or interest in the real property subject to the Declaration, or any part thereof, and shall inure to the benefit of each Owner or successor in interest or assignee thereof:

1. RECITALS. The foregoing Recitals shall constitute an integral part of this Sixth Amendment, and this Sixth Amendment shall be construed in light thereof.

2. The Declaration is hereby amended to allow for the annexation of additional property into the Association. Once annexed, said property shall be subject to all terms of the

Declaration, as supplemented and amended, with the addition of the specific regulations imposed on said annexed property stated herein.

3. The Declaration is hereby amended to annex the following real property into the Association:

Those tracts described as 1.11-acre Permanent Open Space and 9.23-acre Permanent Open Space as shown on a plat of Banks Pointe Subdivision, Phase III, as recorded in Book of Maps 2005, Pages 2363 through 2366 of the Wake County Registry.

Annexation of the above-described real property shall be effective upon recordation of this Sixth Amendment.

4. The Declaration is hereby amended to designate the following real property as "Additional Property" that may be annexed into the Association in the future without further approval of the Class A Members of the Association, Owners of Lots in Banks Pointe Subdivision:

- a) All that certain real property labeled "Phase 4A" and "Phase 4B" as delineated on the plat entitled "Preliminary Plan for Banks Pointe Phase 4 (A Cluster Subdivision)" as attached hereto as Exhibit "A".
- b) A tract containing approximately 112.17 acres near or adjoining Banks Pointe Phases I-III by deed of record in Book 15284, Page 2717 in the Wake County Registry, LESS AND EXCEPT that certain real property labeled "Phase 4A" and "Phase 4B" as delineated on the plat entitled "Preliminary Plan for Banks Pointe Phase 4 (A Cluster Subdivision)" as attached hereto as Exhibit "A".
- c) A tract containing approximately 31.20 acres near or adjoining Banks Pointe, Phase I-III by deed of record in Book 15285, Page 89 in the Wake County Registry.

In order for said Additional Property to be annexed into the Association, the owner of said Additional Property shall deliver to the Association Board a written request for annexation that describes the real property to be annexed along with an acknowledgment that the requested property to be annexed shall be subject to the terms as set forth herein. Within ten (10) days of the receipt of said written request and acknowledgement, the Association Board shall prepare, execute and return to the owner of the Additional Property for recording a Notice of Annexation. Said Notice of Annexation shall be executed by the President or, if he is unavailable, the Vice President of the Association along with the record owner of the property to be annexed. Any annexation of Additional Property shall be effective upon the recordation at the Wake County Register of Deeds of both a) the Notice of Annexation and b) a final plat of real property to be annexed that includes each individual lot that is to become part of Banks Pointe. Said final plat shall make reference to the Declaration as amended and supplemented and shall state that the lots contained therein shall be subject to the restrictions therein.

5. All streets and/or roads constructed within any Annexed Real Property (hereinafter defined as any real property described in Paragraphs 3 and 4 herein) shall conform to

the whichever of the following are applicable to the Annexed Real Property at the time of annexation: Minimum Construction Standards for Subdivision Roads established by the North Carolina Department of Transportation ("NCDOT"); the 2014 Wake County Uniform Development Ordinance, as amended or supplemented; or such similar applicable governmental law or regulation addressing the dedication of public streets and roads within the Annexed Real Property. All streets and/or roads constructed within any Annexed Real Property shall be dedicated to NCDOT or such other applicable governmental entity to be operated and maintained as a public street and/or road. None of the streets and/or roads constructed within any of the Annexed Real Property shall be designated as private nor shall the Association be obligated to maintain or repair said streets and/or roads at any time.

6. Each individual lot within the Annexed Real Property, once shown on a recorded final plat and properly annexed as a part of Banks Pointe Subdivision, shall be possess ¼ voting rights and assessment obligations in the amount of ¼ until a Certificate of Occupancy is issued by the responsible jurisdiction for that lot, at which time said lot shall be vested with full voting rights along with corresponding full assessment obligations.

7. Plans for homes to be built within Lots 57, 60, 61, 64, 65, 66, 67, 70, 73, 76, 77, 83, 86 and 90, as shown on a plat of Banks Pointe Subdivision, Phase III, as recorded in Book of Maps 2005, Pages 2363 through 2366 of the Wake County Registry and plans for homes to be built within the Annexed Real Property do not need to be approved by the Architectural Control Committee so long as those homes are built in accordance with the guidelines set forth in the attached Exhibit B. Upon commencement of construction of a home on a lot within the Annexed Real Property ("commencement of construction" being defined as the initial grading of land for building), the builder or developer shall provide to the Architectural Control Committee a copy of the plans for that home for its records. Any home construction that violates the guidelines set forth in the attached Exhibit B shall be a violation of the Declaration and, as such, shall be subject to fines and injunctive relief.

8. Except as specifically amended hereinabove, the remaining provisions of the Declaration as previously amended are hereby acknowledged and reaffirmed in every respect.

9. This Sixth Amendment has been duly approved by more than two-thirds (2/3) of Class A Members of the Association;

10. This Sixth Amendment to the Declaration shall be effective upon recordation in the Wake County Registry.

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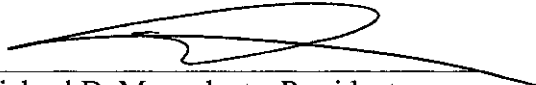
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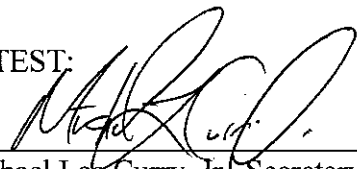
WHEREFORE, the President and Secretary of the Association have hereunto affixed the corporate certification for the purpose of enacting the foregoing Sixth Amendment to the Declaration.

CERTIFICATION OF VALIDITY OF SIXTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BANKS POINTE SUBDIVISION

By authority of its Board of Directors, the undersigned hereby certify that the foregoing instrument has been duly approved by at least two-thirds (2/3) of the Class A Members of BANKS POINTE OWNERS' ASSOCIATION, INC., a North Carolina non-profit corporation, and is, therefore, a valid Sixth Amendment to the existing Declaration of Covenants, Conditions and Restrictions of Banks Pointe Subdivision, as amended.

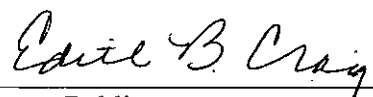
**BANKS POINTE OWNERS' ASSOCIATION, INC.,**  
A North Carolina Non-Profit Corporation

By:   
Michael D. Mercadante, President

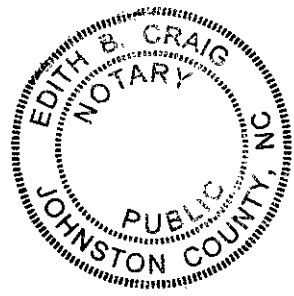
ATTEST:  
  
Michael Lee Curry, Jr., Secretary

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, Edith B. Craig, a Notary Public of the County and State aforesaid, certify that Michael Lee Curry, Jr. personally came before me this day and acknowledged that he is Secretary of BANKS POINTE OWNER'S ASSOCIATION, INC., a North Carolina non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by him as its Secretary. Witness my hand and official stamp or seal, this 13 day of February, 2015.

  
Notary Public

My Commission Expires: 8/2/16



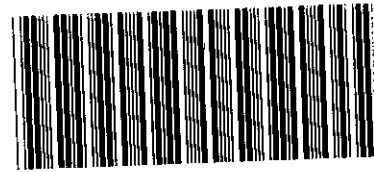


**Exhibit B**  
**Banks Pointe Architectural Guidelines**

**CONSTRUCTION:** The following construction guidelines are in addition to the existing Banks Pointe Covenants and have been established to further the scheme and plan of development of the subdivision. Any prohibited materials or design features have been determined not to fit with the scheme and plan of development.

1. Main roof pitches slopes shall range from 10:12 to 12:12 unless approved by ACC. Any secondary pitches shall be no lower than 4:12.
2. Roofing materials on the main roof pitches shall consist of architectural shingles. Secondary Pitches may utilize Standing Seam Metal Panels if preferred, colors consistent with existing neighborhood.
3. Exterior color shall be in harmony with existing community. Foundation covering shall be nominal brick or dimensional stone.
4. All exposed exterior wood structures shall be painted, stained or covered with a protective weather resistant finish. These types of structures shall include but not limited to decks, porches, pergolas, arbors, trellises and sheds
5. No veneered, adhered, or glued pre-fab brick or stone panels, or cement parge covered foundations or facades shall be permitted. All foundations or facades of homes shall be covered with actual brick or stone adhered with mortar. The front facade of home must consist of a nominal brick or stacked stone that encompasses 50% or more of street facing wall square footage.
6. Mortar joints on vertical surfaces need to be tooled at a minimum of 1/8" deeper than the exterior face of the masonry.
7. Vinyl soffit or siding shall not be permitted. Siding and soffit material shall be made of material that will not deteriorate or rot such as cementations fiber board.
8. Slabs on ground are not permitted except in garages, basements, patios and driveways.
9. Drive and walkway to front porch shall be concrete, no asphalt or gravel driveways.
10. Windows shall be vinyl clad.
11. Seamless aluminum gutters with down spouts/splash blocks are required.
12. Interior surfaces of garage walls must be covered with a minimum of gypsum board, joints shall be taped with joint compound and the walls shall be painted. Operable garage doors shall be 8 foot tall.
13. Front porch railings and spindles shall be made of black wrought iron or aluminum. Front Doors shall be stained rather than painted.
14. Garages shall have a minimum of 2 car exit capacity. Side load garages will be required, unless topography or lot size does not accommodate side entry.
15. All fences are to be between 4 feet and 6 feet tall.Chain link, split rail or other wooden fencing will not be acceptable. Black or dark bronze aluminum (non-rust) fencing consistent with those throughout the neighborhood is acceptable. All posts to be set in concrete.
16. Outbuilding, storage building and playhouses must be incidental to residential use and be limited to one story tall and must be a minimum of 12 foot X 12 foot or maximum of 24 foot X 36 foot in size. Limit one building per

residential lot. Building is to be constructed of same materials (stone or brick or cementitious siding) and must be architecturally compatible as the residential dwelling on the lot. Exterior finishes shall match residential dwelling in material and color. Metal storage sheds are prohibited.



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**WAKE  
COUNTY**  
NORTH CAROLINA

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**Please retain yellow trailer page**

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

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**Laura M. Riddick  
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 Time Stamps Needed

**This Document**

\_\_\_\_\_ <sup>9</sup> # of Pages <sup>1</sup>