

WAKE COUNTY, NC 265  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
11/17/2010 AT 14:15:51

BOOK:014160 PAGE:00263 - 00274

Prepared by and return to:

William L. Kimmey, Jr., Esq.  
Wyrick Robbins Yates & Ponton LLP  
4101 Lake Boone Trail, Suite 300  
Raleigh, North Carolina 27607

FOURTH AMENDMENT TO  
DECLARATION OF CONDOMINIUM  
FOR  
HIGH HOUSE OFFICE CENTER CONDOMINIUMS

Plans filed in Condominium Map Book 2008, Condominium File 484

FOURTH AMENDMENT TO DECLARATION OF CONDOMINIUM  
FOR HIGH HOUSE OFFICE CENTER CONDOMINIUMS

This Fourth Amendment to Declaration of Condominium for High House Office Center Condominiums ("Fourth Amendment") effective on this 15 day of November, 2010, by High House Office Center Associates LLC ("Declarant"), Southern Community Bank and Trust ("Southern Community"), OS Family Investors, LLC ("OS Family"), and Branch Banking and Trust Company ("BB&T").

**RECITALS:**

WHEREAS, Declarant filed a Declaration of Condominium for High House Office Center Condominiums recorded on July 2, 2008, in Book 13165, Page 2211, Wake County Registry ("Original Declaration"), as amended by that First Amendment to Declaration of Condominium recorded on September 24, 2009, in Book 13706, Page 1670, Wake County Registry ("First Amendment"), as amended by that Second Amendment to Declaration of Condominium recorded on February 22, 2010, in Book 13857, Page 2455, Wake County Registry ("Second Amendment"), and as further amended by that Third Amendment to Declaration of Condominium recorded on May 20, 2010, in Book 13945, Page 1824, Wake County Registry ("Third Amendment"), (the Original Declaration, the First Amendment, the Second Amendment, the Third Amendment, and this Fourth Amendment are collectively referred to as the "Declaration").

WHEREAS, Southern Community is a holder of a security interest in the Property (as defined in the Original Declaration and as described in Exhibit A attached hereto) by virtue of a Deed of Trust recorded in Book 13982, Page 2274, Wake County Registry, North Carolina, ("Deed of Trust"), together with any other documents evidencing, securing or in any manner, relating to the indebtedness evidenced or secured by the Deed of Trust (all such documents are collectively referred to herein as the "Southern Community Security Documents").

WHEREAS, Southern Community desires to consent to the terms of this Fourth Amendment and to subordinate the lien of the Southern Community Security Documents and by execution of this Fourth Amendment does hereby subordinate the lien of the Southern Community Security Documents and any amendments or modifications thereto, to the Declaration.

WHEREAS, Declarant desires to create an entryway vestibule as a Limited Common Element for the ownership by and use of Unit 130 ("Unit 130") and Unit 140 ("Unit 140"), each within Building C, 1100 NW Maynard Road.

WHEREAS, Declarant has the authority to amend the Declaration pursuant to Part II, Article I, Section 10(c) and Section 10(f) of the Original Declaration.

WHEREAS, Declarant desires to alter the size and configuration of certain Units and their Allocated Interests and to file amended plats and plans amending the plats and plans

recorded in CM2008, Condominium File 484, Page A1 through Page A8, Wake County Registry.

WHEREAS, Declarant is the record owner of Unit 130 and the Building C Vestibule (hereinafter defined), and OS Family is the record owner of Unit 140, Declarant and OS Family being all of the current record owners of the property herein affected.

WHEREAS, BB&T is a holder of a security interest in Unit 140 by virtue of a Deed of Trust and Security Agreement recorded in Book 13954, Page 850, Wake County Registry, North Carolina, ("BB&T Deed of Trust"), together with any other documents evidencing, securing or in any manner, relating to the indebtedness evidenced or secured by the BB&T Deed of Trust (all such documents are collectively referred to herein as the "BB&T Security Documents").

WHEREAS, BB&T desires to consent to the terms of this Fourth Amendment and to subordinate the lien of the BB&T Security Documents and by execution of this Fourth Amendment does hereby subordinate the lien of the BB&T Security Documents and any amendments or modifications thereto, to the Declaration.

NOW, THEREFORE, Declarant declares that all of the Property, together with the alterations described herein, shall be held, sold, transferred, conveyed, occupied and used subject to the Declaration, which shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns. The defined terms set out in this Fourth Amendment shall have the same meanings as defined in the Original Declaration, unless otherwise defined in this Fourth Amendment. The recitals set out above are adopted by the parties and incorporated as terms of this Fourth Amendment.

1. Declarant hereby (a) alters the size and configuration of Unit 130 situated in Building C, 1100 NW Maynard Road and (b) alters the size and configuration of Unit 140 situated in Building C, 1100 NW Maynard Road, as such Units are described in the amended Table of Allocated Interest, attached hereto as Exhibit B and amended plats and plans recorded in Book CM2008, Condominium File 484, Page A9, in the Wake County Registry and incorporated herein by reference. Units 130 and 140 are located in Building C on the Property with a street address of 1100 NW Maynard Road, Cary, NC 27513.

2. Declarant hereby designates that area of Building C containing 44 gross rentable square feet and described as "Limited Common Element" on the plat recorded in Book CM2008, Condominium File 484, Page A9, Wake County Registry as a Limited Common Element allocated to the owners of Unit 130 and Unit 140 (the "Building C Vestibule"). The owner of Unit 130 and the owner of Unit 140 shall each have and hereafter hold a one-half undivided interest in the Building C Vestibule and a right of use and enjoyment in the same, which interests and rights shall be appurtenant to and pass with the title to Unit 130 and Unit 140, respectively. The interests and rights of Unit 130 and Unit 140 in and to the Building C Vestibule are subject to the following conditions:

- (a) The Allocated Interests for Unit 130 and Unit 140 shall be calculated by adding one-half of the total gross rentable square footage of the Building C Vestibule (22

gross rentable square feet) to each unit's gross rentable square footage. Exhibit B, attached hereto, hereby replaces and supersedes the previous table of Allocated Interests attached to the Original Declaration as Exhibit C (as amended).

- (b) The owners of Unit 130 and Unit 140 are equally responsible for the maintenance, repair and replacement of the Building C Vestibule and all costs associated therewith (to be split 50% - 50% in accordance with each owner's respective interest, except as provided below). Each unit owner shall contribute such amounts as reasonably required to keep the Building C Vestibule in a neat and orderly condition, and in a good state of repair, such that the condition of the Building C Vestibule is not dissimilar to entryway areas in comparable office properties in the greater Raleigh metropolitan area. Notwithstanding the foregoing, no owner of said units shall be responsible for costs of maintenance, repair and/or replacement of the Building C Vestibule or any portion thereof which is necessitated by the negligence or the intentional misconduct of the other unit owner or the other unit owner's tenants, employees, agents, contractors, invitees, or licensees, and Declarant and OS Family, as the current owners of Unit 130 and Unit 140, respectively, do each hereby agree to indemnify and hold each other harmless from and against any and all claims arising from said acts or omissions attributable to the other.
- (c) The owners of Unit 130 and Unit 140 are equally responsible to insure (casualty and liability) the Building C Vestibule and to pay all costs associated therewith (to be split 50% - 50% in accordance with each owner's respective interest, except as provided below). Notwithstanding the foregoing, no owner of said units shall be responsible for claims, damages, or injuries to person or property resulting from the negligence or the intentional misconduct of the other unit owner or the other unit owner's tenants, employees, agents, contractors, invitees, or licensees, and Declarant and OS Family, as the current owners of Unit 130 and Unit 140, respectively, to the extent not covered by their required insurance policies, do each hereby agree to indemnify and hold each other harmless from and against any and all claims arising from said acts or omissions attributable to the other.
- (d) The owners of Unit 130 and Unit 140 are equally responsible to pay all ad valorem taxes and other governmental assessments associated with the Building C Vestibule (to be split 50% - 50% in accordance with each owner's respective interest).
- (e) The owners of Unit 130 and Unit 140 may establish reasonable rules and regulations ("Rules and Regulations") from time to time with respect to the joint rights and responsibilities for the Building C Vestibule. Any initial Rules and Regulations established between said unit owners and any amendments thereto must be in writing and signed by both owners to be effective. Additionally, if requested by either unit owner, the owners of Unit 130 and Unit 140 shall record a memorandum of the Rules and Regulations, and in such case, the Rules and Regulations set forth in the memorandum shall run with the title to Unit 130 and

Unit 140. The Rules and Regulations may only be amended, modified or terminated by the unanimous written consent of all owners of Unit 130 and Unit 140.

- (f) The owners of Unit 130 and Unit 140 shall perform their obligations hereunder in a commercially reasonable manner. Any contributions, payments, insurance policies, acts of maintenance, or other obligation or responsibility required hereunder shall be made, procured, or performed by the owners of Unit 130 and Unit 140 in a commercially reasonable, good and timely manner, in any event not to exceed ten (10) business days from a written demand being made therefor by either of the owners of said units, time being of the essence. In the event the payment or performance required hereunder is not timely made within the aforesaid ten (10) business day period, the unit owner requesting performance may (but shall not be required to) make the required payment or performance on the non-performing unit owner's behalf, with the costs and expenses of such payment or performance being deemed a loan made to the non-performing unit owner and accruing interest at the rate of eight percent (8.00%) per annum until paid.

3. Exhibit B, attached hereto, hereby replaces and supersedes the previous table of allocated interests attached to the Original Declaration as Exhibit C (as amended).

4. OS Family and BB&T join in the execution of this Fourth Amendment for the purpose issuing its consent to the terms hereof and acknowledging its obligations and rights set forth herein.

5. All capitalized terms used but not defined herein shall have the meanings set forth in the Declaration. The rights, interests, liabilities and obligations herein shall be deemed and construed covenants as running with each of Unit 130 and Unit 140, and shall be binding upon and inure to the benefit of current and successor owners of the same. All notices required or permitted to be sent with respect to the shared obligations and rights to the Building C Vestibule shall be sent to the address of the record owner of Unit 130 or Unit 140, as appropriate, as set forth on the Wake County tax records.

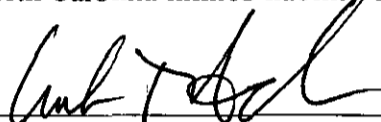
6. Except as amended herein, the Declaration shall remain in full force and effect.

**[The signature pages follow.]**

Declarant Signature and Notary Page

IN WITNESS WHEREOF, Declarant has caused this Fourth Amendment, effective the date first above written, to be executed in its name by its duly authorized manager.

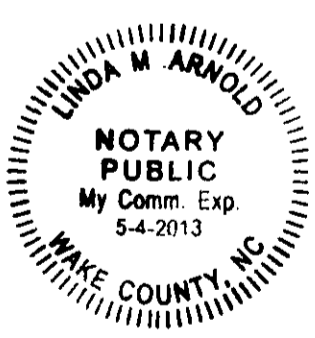
High House Office Center Associates, LLC,  
a North Carolina limited liability company

By:   
Name: Mark T. Andrews  
Title: Manager

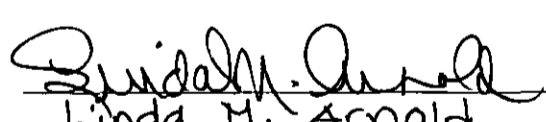
STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Mark T. Andrews, Manager of High House Office Center Associates, LLC.

Date: November 10, 2010



(Official Seal)

  
Linda M. Arnold  
Notary Printed Name  
My Commission Expires: \_\_\_\_\_

Southern Community Signature and Notary Page

IN WITNESS WHEREOF, Southern Community has executed this Fourth Amendment effective the date first above written to acknowledge its consent hereto and for the purpose of subordinating the lien of the Southern Community Security Documents hereto.

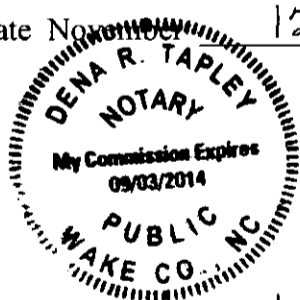
Southern Community Bank and Trust

By: A. Steele Hall  
Name: A. Steele Hall  
Title: Vice President

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: A Steele Hall,  
Vice President of Southern Community Bank.

Date Notarized 12, 2010



Dena R. Tapley  
Notary Public  
Dena R. Tapley  
Notary Printed Name

My Commission Expires: 9/3/14

OS Family Signature and Notary Page

IN WITNESS WHEREOF, OS Family has executed this Fourth Amendment effective the date first above written for the purposes herein stated.

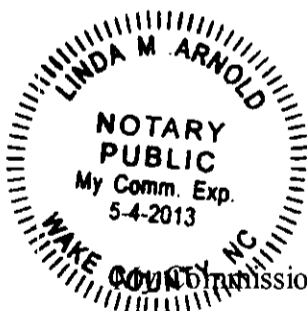
OS Family Investors, LLC

By: *Susan Orenstein*  
Name: Susan Orenstein  
Title: ~~Business Development~~ Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Susan Orenstein, Manager, ~~Business Development~~ OS Family Investors, LLC.

Date November 10, 2010



*Linda M. Arnold*  
Notary Public  
Linda M. Arnold  
Notary Printed Name

Commission Expires: \_\_\_\_\_

BB&T Signature and Notary Page

IN WITNESS WHEREOF, BB&T has executed this Fourth Amendment effective the date first above written to acknowledge its consent hereto and for the purpose of subordinating the lien of the BB&T Security Documents hereto.

Branch Banking and Trust Company  
By: [Signature]  
Name: Chris Isley  
Title: SVP

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: A. Chris Isley,  
Senior Vice President of Branch Banking and Trust Company.

Date November 15, 2010

[Signature]  
Notary Public  
Jill Vance  
Notary Printed Name

My Commission Expires: 7.23.2015



**EXHIBIT A**

**PROPERTY DESCRIPTION**

All of that parcel of land containing 2.495 acres as set forth and described on survey dated October 14, 2005 entitled "Topographic and Boundary Survey for Hi-Ho Associates Limited Partnership, a North Carolina Limited Partnership, Cary Township, Wake County, North Carolina" prepared by Smith and Smith Surveyors, more particularly described as follows:

BEGINNING at an Iron Pipe, said point being the Southwest corner of the Good Shepherd United Church of Christ property as described in Deed Book 8860, Page 1709, Wake County Registry; thence starting as a curve to the right with a radius of 805.00 feet and a chord bearing of N 34°32'25" West a chord distance of 359.93 feet to an Iron Pipe Set; thence S 86°59'59" E 30.28 feet to an Existing Iron Pipe; thence N 00°58'10" E a distance of 411.42 feet to an Existing Iron Pipe, said point being the Northeast corner of the property of the Masonic Home for Children at Oxford, Inc., as recorded in Estate File 99-E-986; thence S 86°32'32" E 180.17 feet to an Existing Iron Pipe, said point being the Northwest corner of the Alexander Chiaramonti and Susan Chiaramonti property as shown on map recorded in Book 1980, Page 680, Wake County Registry; thence S 01°02'24" W a distance of 329.52 feet to an Existing Iron Pipe; thence S 01°05'37" W, a distance of 365.99 feet to the point and place of BEGINNING.

TOGETHER WITH AND SUBJECT TO the terms and conditions of that Joint Driveway and Cross Access Easement dated May 2, 2005, and recorded in Book 12626, Page 1371, Wake County Registry.





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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**

**This Customer Group**  
\_\_\_\_\_ # of Time Stamps Needed

**This Document** ✓  
\_\_\_\_\_ # of Pages **12**  
New Time Stamp **ARL**