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FILED
CUMBERLAND COUNTY NC
J. LEE WARREN, JR.
REGISTER OF DEEDS

FILED May 07, 2010
AT 08:52:00 am
BOOK 08388
START PAGE 0813
END PAGE 0818
INSTRUMENT # 13648
RECORDING \$29.00
EXCISE TAX (None)

KSJ

Prepared By and Return To:
Holden Reaves, Esq.
Reaves & Reaves, PLLC
P.O. Box 53187
Fayetteville, NC 28305

**FIRST AMENDMENT TO
RESTRICTIVE COVENANTS FOR STONE CREEK,
SECTION TWO, PART TWO**

[To Memorialize Solid-Panel Fencing Variance for Lots 71 and 72]

THIS FIRST AMENDMENT TO RESTRICTIVE COVENANTS FOR STONE CREEK, SECTION TWO, PART TWO (this "Amendment") is made by **STONECREEK OF EASTOVER, LLC**, a North Carolina limited liability company (the "Developer").

Also, it is noted that **H & H CONSTRUCTORS, INC.**, a North Carolina corporation ("H & H Constructors"), **H & H HOMES OF FAYETTEVILLE, LLC**, a North Carolina limited liability company ("H & H Homes"), and **CAVINESS & CATES BUILDING AND DEVELOPMENT COMPANY**, a North Carolina corporation ("Caviness & Cates"), execute this Amendment to evidence their consent to the terms contained herein.

WITNESSETH:

WHEREAS, the Developer previously executed those certain Restrictive Covenants for Stone Creek, Section Two, Part Two, which are recorded in Book 7201, Page 766, Cumberland County Registry (the "Declaration");

WHEREAS, the Declaration subjected certain lots located within the Stone Creek, Section Two, Part Two subdivision (the "Subdivision") to a planned, single-family residential covenant scheme, all as more particularly described in the Declaration;

WHEREAS, Article II, Section 5 of the Declaration provides, *inter alia*, that no solid panel (privacy) fence shall be permitted on any Lot that backs up to Baywood Road;

WHEREAS, the parties hereto desire to enact a permanent variance to allow a solid panel (privacy) fence upon Lots 71 and 72 of the Subdivision, which both back up to Baywood Road;

WHEREAS, Article V, Section 2 of the Declaration provides that the Declaration may be amended by any change or modification being approved by a written recorded instrument signed by all of the owners of the Lots requesting the change and by the majority of the owners of the Lots to both sides within one hundred feet (100') of any Lot requesting the change or modification;

WHEREAS, H & H Homes and/ or H & H Constructors is the current owner of Lots 71 and 72, which are the Lots for which the fencing variance is being requested;

WHEREAS, H & H Homes and/ or H & H Constructors is also the owner of Lot 70, and Caviness & Cates is the owner of Lot 73, and together said owners comprise the majority of the owners of the Lots within one hundred feet (100') of both sides of the Lots for which the change is being requested;

WHEREAS, the parties hereby join in this instrument to amend the Declaration as follows:

NOW, THEREFORE, pursuant to the rights contained with Article V, Section 2 of the Declaration, and for and in consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned parties hereby formally adopt and memorialize the following variance with respect to solid panel (privacy) fencing on Lots 71 and 72 (only) of the Subdivision:

1. All of the above recitals are hereby incorporated herein by reference;
2. Notwithstanding anything to the contrary in Article II, Section 5 of the Declaration, it is hereby expressly provided that a solid panel (privacy) fence shall be permitted on Lots 71 and 72 of the Subdivision;
3. Except as specifically amended herein, the Declaration remains unchanged and in full force and effect, and all parties by their execution hereof, hereby ratify, affirm and approve the Declaration, as specifically amended hereby. All capitalized terms that are not specifically defined herein shall have the meanings attributed to them in the Declaration.

[The Remainder of This Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the dates set forth in the below notary acknowledgments, with the latter of said dates to comprise the effective date hereof.

DECLARANT:

STONECREEK OF EASTOVER, LLC

By: H & H Investments, Inc., Manager

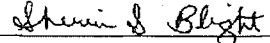
By: 
D. Ralph Huff, III, President

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: D. Ralph Huff, III, as President of H & H Investments, Inc., a North Carolina corporation, said corporation being an authorized Manager of Stone Creek of Eastover, LLC, a North Carolina limited liability company.

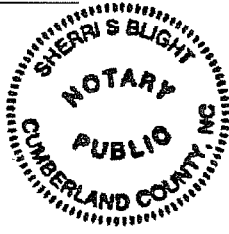
Date: 5-5-10

Official Signature of Notary: 

Notary's Printed Name: SHERRI S BLIGHT

My commission expires: 2-7-11

[Affix Notary Seal or Stamp]



(N.P. SEAL)

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CONSENTING PARTY:

H & H CONSTRUCTORS, INC.

By: [Signature]
D. Ralph Huff, III, President

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: D. Ralph Huff, III, as President of H & H Constructors, Inc., a North Carolina corporation.

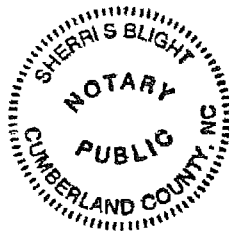
Date: 5-5-10

Official Signature of Notary: [Signature]

Notary's Printed Name: SHERRI S BLIGHT

My commission expires: 2-4-11

[Affix Notary Seal or Stamp]



(N.P. SEAL)

CONSENTING PARTY:

H & H HOMES OF FAYETTEVILLE, LLC

By: [Signature]
D. Ralph Huff, III, Manager

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: D. Ralph Huff, III, as Manager of H & H Homes of Fayetteville, LLC, a North Carolina limited liability company.

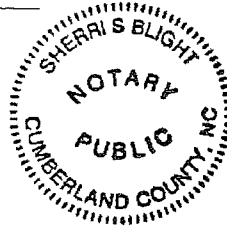
Date: 5-5-10

Official Signature of Notary: [Signature]

Notary's Printed Name: SHERRI S BLIGHT

My commission expires: 2-7-11

[Affix Notary Seal or Stamp]



(N.P. SEAL)

CONSENTING PARTY:

CAVINNESS & CATES BUILDING AND
DEVELOPMENT COMPANY

By: [Signature]
Watson G. Caviness, President

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Watson G. Caviness, as President of Caviness & Cates Building and Development Company, a North Carolina corporation.

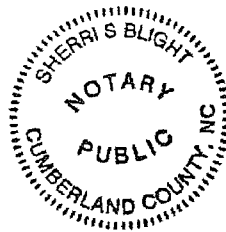
Date: 5-5-10

Official Signature of Notary: [Signature]

Notary's Printed Name: SHERRI S BLIGHT

My commission expires: 2-7-11

[Affix Notary Seal or Stamp]



(N.P. SEAL)
