

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

FILED Jul 22, 2019
AT 03:33:54 pm
BOOK 10546
START PAGE 0779
END PAGE 0790
INSTRUMENT # 22280
RECORDING \$26.00
EXCISE TAX (None)

QAS

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

**RESTATED FIRST AMENDMENT TO DECLARATION OF COVENANTS,
RESTRICTIONS, AND EASEMENTS FOR WATERFORD**

THIS RESTATED FIRST AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS FOR WATERFORD (this "Amendment") is made and entered into as of the date set forth in the below notary acknowledgment by **Cliff's Apartments, LLC**, a North Carolina limited liability company ("Cliff's Apartments"); **H&H Constructors, Inc.**, a North Carolina corporation ("H&H"); **The Cliffs at Waterford Owners Association, Inc.**, a North Carolina non-profit corporation ("Cliffs POA"); **BJMA, LLC**, a North Carolina limited liability company ("BJMA"); **Waterford at Little River Investments, LLC**, a North Carolina limited liability company ("Little River Investments"); **Waterford Commercial Owners Association, Inc.**, a North Carolina non-profit corporation ("Waterford Commercial POA"); and **Waterford at Little River, LLC**, a North Carolina limited liability company ("Little River") (together, the "Owners").

WITNESSETH:

WHEREAS, the Declarant previously executed that certain Declaration of Covenants, Restrictions, and Easements for Waterford recorded in Book 8097, Page 237, Cumberland County, NC Registry (the "Declaration");

WHEREAS, the Declaration applies to the Waterford master development ("Waterford Master Development"), which includes Lots 1, 2, 3, 4, 5, 6, and common area as shown on that certain plat duly recorded in Plat Book 124, Page 29, aforesaid Registry;

WHEREAS, Waterford no longer remains within the Period of Declarant Control, as defined in Section 1.8 of the Declaration, since Declarant no longer owns any portion of the Waterford Master Development;

WHEREAS, the Declaration, *inter alia*, provides for maintenance assessment obligations with respect to Common Area, including those certain Common Expenses related to the maintenance and repair of the shared portion of Watercliff Drive, said portion being identified on the aforesaid plat as "Watercliff Drive (Common Area) 0.71 Acres";

WHEREAS, Cliff's Apartments, H&H, and Cliffs POA collectively own Lot 2, which is the site of the Cliffs at Waterford apartment complex;

WHEREAS, Little River owns Lot 3, which is the site of the Waterford at Little River apartment complex;

WHEREAS, BJMA, Little River Investments, and Waterford Commercial POA collectively own Lots 4 and 5, which is the site of the Waterford Commercial Park (per plat in Plat Book 142, Page 148);

WHEREAS, Little River Investments is the owner of Lot 6, which is undeveloped commercial acreage;

WHEREAS, the Owners have 100% of the votes in the Association, it being acknowledged that Lot 1 was conveyed to the Audubon Environmental Land Trust, Inc. (per deed in Book 8034, Page 578), and Lot 1 is not afforded a vote in the Association per the terms of the Declaration.

WHEREAS, the voting Owners desire to amend the Declaration to adjust the percentage interest allocated to each Lot for liability for Common Expenses; and

WHEREAS, the voting Owners hereby amend the Declaration, as follows:

NOW, THEREFORE, pursuant to Section 8.1 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 Owners hereby amend the Declaration as follows:

1. The above recitals are incorporated herein by reference;
2. Section 6.2 of the Declaration is deleted in its entirety (and the portion of Exhibit A that specifies the "Percentage Share of Common Expenses" is also deleted), and Section 6.2 is restated as follows:

"6.2 The interest allocated to each Lot (as the same may be subdivided) for liability for Common Expenses shall be as follows:

<u>Lot No.</u>	<u>Percentage Share of Common Expenses</u>
Lot 1	0%
Lot 2	25%
Lot 3	25%
Lots 4 & 5	25%
Lot 6	25%

It is further agreed that as between Lot 2 and Lots 4 & 5, in the event that the Association approves a future budget that requires Lot 2 to pay in excess of \$200.00/ month toward Common Expenses, then the Owner of Lots 4 & 5 [or the applicable owners' association that governs Lots 4 & 5] shall be responsible for paying such excess amount; however, such monthly cap shall be increased every ten (10) years by \$50.00 to adjust for inflation. Notwithstanding anything to the contrary in the Declaration, the Owner of Lot 2 shall not be responsible for paying any special assessments with the exception of a special assessment for the cost of sealing, paving and/ or repairing the Common Area, required as a result of normal wear and tear, in which case Lot 2 shall be responsible for its full 25% share of any such special assessment.

3. Subsection (C) of Article II of the Declaration is deleted in its entirety and is restated as follows:

“(C) To alter the size of any Lot, combine or merge two or more Lots, to subdivide Lots, the Property or other Property; to turn Lots or Property into Common Area; provided, however, Declarant may not take any such action against any portion of the Property that it no longer owns, or that otherwise affects the boundaries of any portion of the Property that it no longer owns.”;

4. Article III of the Declaration is hereby amended to delete the following sentence: “Anything to the contrary contained in this section notwithstanding, no sewer lines, electrical lines, water lines or other utilities may be installed or relocated on the Property except as approved by Declarant.”

In addition, Article III of the Declaration is hereby further amended to add the following sentence at the end of said paragraph:

“The above notwithstanding, the Declarant and/ or the Association shall no longer have the authority to grant easements over any portion of the Property that is not owned by either Declarant or the Association”;

5. Section 6.10 of the Declaration is amended to delete the following clause and sentence: “provided, however that no Lot shall be assessed for any Common Expense until construction has commenced on said Lot. The liability for Common Expenses and votes for a vacant Lot shall be allocated equally among the remaining Lots until construction has commenced on said Lot.”;

6. Section 8.1 of the Declaration is amended to limit the Declarant's future right to unilaterally alter or amend this Declaration, as long as Declarant owns any Lot or portion of the Property, to any amendment that may be necessary (a) to bring any provision into compliance with any governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot or portion thereof; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of any mortgage loans, to make, purchase, insure, or guarantee mortgage loans on any Lot or portion thereof; (d) to satisfy the requirements of any local, state, or federal government agency; or (e) in the reasonable discretion of Declarant, as long as such amendment does not affect Owner voting rights or unreasonably increase Owner assessment obligations (in light of the cumulative benefit to the Property) (but such amendment may not alter the assessment cap on Lot 2, as set forth in Section 6.2 hereof). In addition, as a technical correction, the word "Developer" in Section 8.1 is hereby replaced with the word "Declarant";
7. As a technical correction, it is noted that in the second (2nd) WHEREAS paragraph of the Declaration, the correct plat reference for Lot 2 is Plat Book 124, Page 29. Such was inadvertently omitted in the Declaration;
8. As a technical correction, the words "Common Elements" in Section 1.4(F) of the Declaration are hereby replaced with the words "Common Area";
9. As a technical correction, the words "Common Property" in Section 1.4(G) of the Declaration are hereby replaced with the word "property";
10. As a technical correction, the words "in accordance with the maintenance standards set forth in the Party Wall Agreement" in Section 6.5 are hereby deleted;
11. Section 1.8 of the Declaration is hereby amended to add the following sentence at the end of the paragraph:

"The Period of Declarant Control may not be revived by the re-deeding of any portion of the Property back to Declarant."
12. This Amendment shall serve to fully restate that certain prior First Amendment recorded in Book 10539, Page 843, Cumberland County, NC Registry (the "Prior First Amendment"); and the Prior First Amendment is hereby terminated, and declared null and void;

13. Except as specifically amended herein, the Declaration remains unchanged and in full force and effect, and the Declarant by its execution hereof, hereby ratifies, affirms and approves 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;
Signature Page Attached Hereto]**

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

OWNERS:

Cliff's Apartments, LLC

By:

[Handwritten Signature]
D. Ralph Huff, III
Sole Manager

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

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: D. Ralph Huff, III, in his capacity as sole Manager of Cliff's Apartments, LLC, a North Carolina limited liability company.

Date: 7-19-19

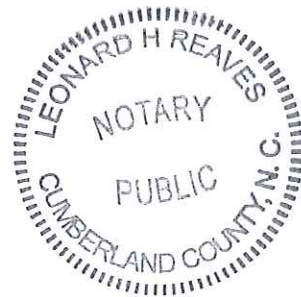
Official Signature of Notary: *[Handwritten Signature]*

Notary's Printed Name: Leonard H. Reaves

My commission expires: My Commission Expires August 25, 2024

[Affix Notary Seal or Stamp]

(N.P. SEAL)



H&H Constructors, Inc.

By:

[Handwritten Signature]

D. Ralph Huff, III
CEO

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

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: D. Ralph Huff, III, in his capacity as CEO of H&H Constructors, Inc., a North Carolina corporation.

Date: 7-19-19

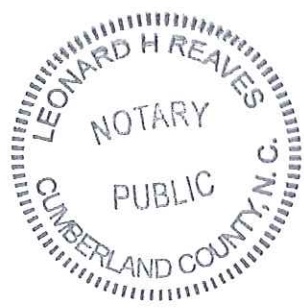
Official Signature of Notary: *[Handwritten Signature]*

Notary's Printed Name: Leonard H. Reaves

My commission expires: My Commission Expires August 25, 2024

[Affix Notary Seal or Stamp]

(N.P. SEAL)



The Cliffs at Waterford Owners Association, Inc.

By: [Signature]
D. Ralph Huff, III
Chairman of the Board

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

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: D. Ralph Huff, III, in his capacity as Chairman of the Board of The Cliffs at Waterford Owners Association, Inc., a North Carolina non-profit corporation.

Date: 7-19-19

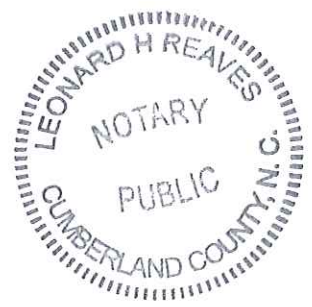
Official Signature of Notary: [Signature]

Notary's Printed Name: Leonard H. Reeves

My commission expires: ~~My Commission Expires August 25, 2024~~

[Affix Notary Seal or Stamp]

(N.P. SEAL)



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

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

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: D. Ralph Huff, III, in his capacity as Manager of BJMA, LLC, a North Carolina limited liability company.

Date: 7-19-19

Official Signature of Notary: [Signature]

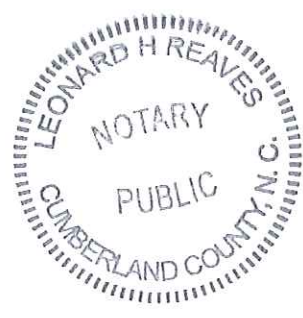
Notary's Printed Name: Leonard H Reaves

My commission expires: My Commission Expires August 25, 2024

[Affix Notary Seal or Stamp]

My Commission Expires August 25, 2024

(N.P. SEAL)



Waterford at Little River Investments,
LLC

By: [Signature]

Print Name: Watson G. Carviss

Title: Member

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

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: Watson G. Carviss in capacity as Member of Waterford at Little River Investments, LLC, a North Carolina limited liability company.

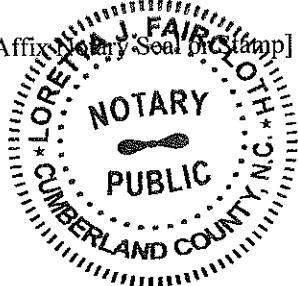
Date: July 19, 2019

Official Signature of Notary: [Signature: Loretta J. Faircloth]

Notary's Printed Name: Loretta J. Faircloth

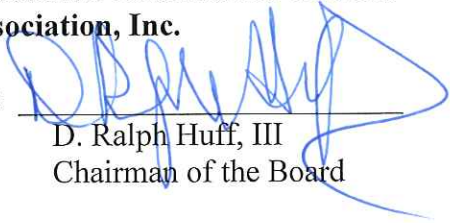
My commission expires: June 8, 2023

[Affix Notary Seal or Stamp]



(N.P. SEAL)

Waterford Commercial Owners Association, Inc.


By: 
D. Ralph Huff, III
Chairman of the Board

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

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: D. Ralph Huff, III, in his capacity as Chairman of the Board of Waterford Commercial Owners Association, Inc., a North Carolina non-profit corporation.

Date: 7-19-19

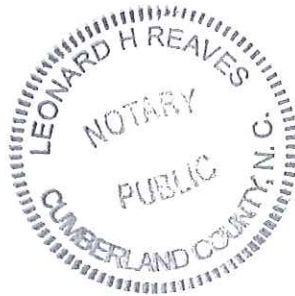
Official Signature of Notary: 

Notary's Printed Name: Leonard H. Reaves

My commission expires: ~~My Commission Expires August 25, 2024~~

[Affix Notary Seal or Stamp]

(N.P. SEAL)



Waterford at Little River, LLC

By: [Signature]

Print Name: Watson G. Caviness

Title: Member

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

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: Watson G. Caviness in capacity as Member of Waterford at Little River ~~Investments~~, LLC, a North Carolina limited liability company.

Date: July 19, 2019

Official Signature of Notary: [Signature]

Notary's Printed Name: Loretta J. Faircloth

My commission expires: June 8, 2023

[Affix Notary Seal or Stamp]



(N.P. SEAL)