


2009002487


 TRANSYLVANIA CO, NC FEE \$26.00  
 PRESENTED & RECORDED:  
 05-07-2009 04:49:58 PM  
 CINDY M OWNBEY  
 REGISTER OF DEEDS  
 BY: TERESA D MORTON  
 DEPUTY REGISTER OF DEEDS  
 BK: DOC 496  
 PG: 689-693

This instrument prepared by Kimberly R. Coward, Attorney at Law, Cashiers, NC 28717.

STATE OF NORTH CAROLINA

COUNTY OF TRANSYLVANIA

**FIRST AMENDMENT TO THE  
 DECLARATION OF  
 PROTECTIVE COVENANTS FOR  
 THE PRESERVE AT ROCK CREEK**

**THIS FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS FOR THE PRESERVE AT ROCK CREEK** is made this the 5 day of May, 2009, by **T.P.B., LLC**, a Louisiana limited liability company authorized to transact business in North Carolina as "Falcon Ridge Development, LLC", hereinafter referred to as "Declarant" and **THE PRESERVE AT ROCK CREEK PROPERTY OWNERS ASSOCIATION, INC.**, a North Carolina non-profit corporation, hereinafter referred to as "Association".

WITNESSETH:

THAT, WHEREAS, by Declaration of Protective Covenants for The Preserve at Rock Creek dated April 30, 2004, recorded in Book 230, Page 472, Transylvania County Registry, to which reference is specifically made, the Declarant subjected certain real property, as described therein, to said Declaration; and

WHEREAS, said Declaration, in Paragraph XII thereof, provides that said Declaration may be amended by the Declarant, however, the Declarant desires that the Association join in the Amendment for the purpose of giving its consent hereto; and

WHEREAS, Declarant and seventy-five percent (75%) of the Owners of all lots in The Preserve at Rock Creek Subdivision entitled to vote have voted affirmatively to amend said Declaration, as set forth in the certification attached hereto;

NOW, THEREFORE, pursuant to Article XII of the Declaration of Protective Covenants for The Preserve at Rock Creek, said Declaration is hereby amended as follows:

1. Article II is hereby deleted in its entirety and the following Article II is hereby substituted hereinbelow:

BEING no more than forty-six (46) total lots as described in Exhibit "A" attached hereto and incorporated herein by reference, is the property hereby declared to be held, transferred, sold, conveyed, encumbered, leased, used, improved and occupied subject to this Declaration.

- 2. Exhibit "A" is hereby deleted in its entirety and the following Exhibit "A" attached hereto and incorporated herein by reference is hereby substituted in lieu thereof.
- 3. Article III, Section 4, is hereby deleted in its entirety and the following Article III, Section 4, is hereby substituted in lieu thereof:

Declarant shall have the right to use the subdivision roads and water system for the purpose of providing water service to no more than eleven (11) lots in Declarant's subdivision known as "Falcon Ridge", which subdivision is contiguous to Declaration Property and situated in Jackson County, North Carolina. Declarant, when giving the owners of said lots the right to use the Preserve at Rock Creek Water System (hereinafter "Water System") will require the owners to execute an agreement whereby the owner agrees to pay the amount equal to the sum paid by members of The Preserve at Rock Creek Association, Inc., for the operation, maintenance, repair and/or replacement of the Water System as set forth in Article V, Section 9, (Assessments) hereinbelow, on the due date established by said Association, and to be subject to all of the provisions of Article V. of this Declaration and the Bylaws of the Association as said provisions pertain to the assessments for said Water System, the lien rights of the Association, the right of the Association to fine its Members and the right of the Association to deny privileges to an owner that is in default under the provisions of the Declaration.

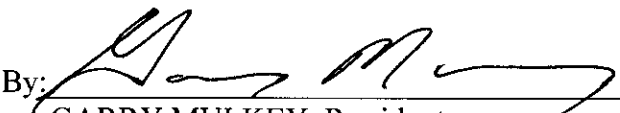
- 4. Exhibit "C" is hereby deleted in its entirety.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed by its Manager, the day and year first above-written and the Association has caused these presents to be executed by its President, all by order of its Board of Directors duly given, the day and year first above-written.

T.P.B., LLC, a Louisiana limited liability company authorized to transact business in North Carolina as "Falcon Ridge Development, LLC"

By:   
 \_\_\_\_\_  
 TIMOTHY P. BRIGHT, Manager

THE PRESERVE AT ROCK CREEK PROPERTY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation

By:   
 \_\_\_\_\_  
 GARRY MULKEY, President

(NOTARY ACKNOWLEDGEMENTS CONTINUED ON FOLLOWING PAGE)

STATE OF LOUISIANA

COUNTY OF Jefferson  
PARISH

I, a Notary Public of Jefferson Parish County and State aforesaid, do hereby certify that TIMOTHY P. BRIGHT, Manager of T.P.B., LLC, a Louisiana limited liability company authorized to transact business in North Carolina as "Falcon Ridge Development, LLC", personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

WITNESS my hand and official stamp or seal, this the 14<sup>th</sup> day of APRIL, 2009.



*Catherine Luccioni Shearer*

Notary Public  
**CATHERINE LUCCIONI SHEARER**  
NOTARY PUBLIC  
Jefferson Parish, State of Louisiana  
Notary Number: 69374  
Printed Name of Notary  
My Commission is issued for Life.

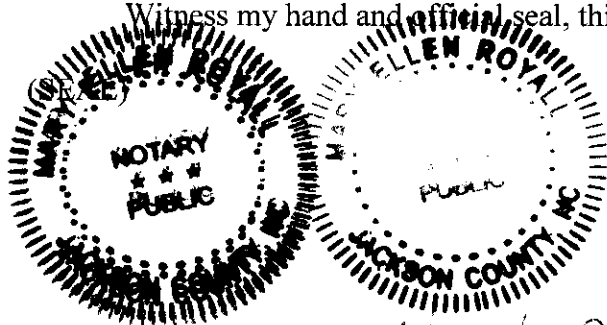
My Commission Expires: \_\_\_\_\_

STATE OF North Carolina

COUNTY OF Jackson

I, a Notary Public of Jackson County and State aforesaid, certify that GARRY MULKEY personally came before me this day and acknowledged that he is president of THE PRESERVE AT ROCK CREEK PROPERTY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, and that he, as president, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 13<sup>th</sup> day of April, 2009.



*Mary Ellen Royall*

Notary Public  
*Mary Ellen Royall*  
(Printed Name of Notary)

My Commission Expires: November 2, 2010

CERTIFICATE

I, the undersigned Secretary of The Preserve at Rock Creek Property Owners Association, Inc., do hereby certify that the following resolution was duly adopted by the Directors after an affirmative vote of seventy-five percent (75%) of the lot owners of The Preserve at Rock Creek Subdivision entitled to vote:

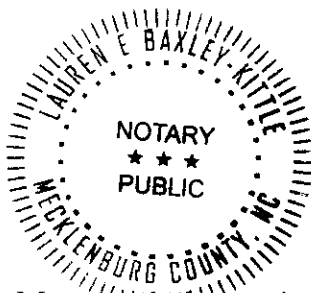
RESOLVED, that the Declaration of Protective Covenants for The Preserve at Rock Creek recorded in Book 230, Page 472, Transylvania County Registry, be amended as set forth in the foregoing First Amendment to Declaration of Protective Covenants for The Preserve at Rock Creek.

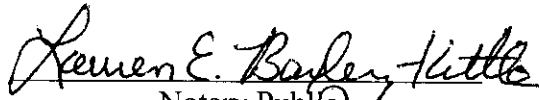
This the 4 day of May, 2009.

  
DOUG STEVENS, Secretary

STATE OF North Carolina  
COUNTY OF Jackson

Sworn to and subscribed before me this 4 day of May, 2009.



  
Notary Public

Lauren E. Baxley-Kittle  
Printed Name of Notary

My commission expires: 11/02/2010

EXHIBIT "A"  
TO THE  
DECLARATION OF PROTECTIVE COVENANTS  
FOR  
THE PRESERVE AT ROCK CREEK

BEING ALL of Lots 1-16, and the Caretaker's Cottage Phase I, as shown on a plat thereof recorded in Plat File 13, Slides 85-86, Transylvania County Registry, to which reference is specifically made.

BEING ALL of Lots 17-22, Phase II A, as shown on a plats thereof recorded in Plat File 13, Slides 107, Transylvania County Registry, and Plat Cabinet 17, Slide 788, Jackson County Registry, to which reference is specifically made.

BEING ALL of Phase II B, containing 90.60 acres, as shown on a plat thereof recorded in Plat File 13, Slide 108, Transylvania County Registry, to which reference is specifically made, which may be subdivided into no more than twenty-three (23) total lots (Lots 23-45).