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 Workflow# 0000046856-0001
 Buncombe County, NC
 Otto W. DeBruhl, Register of Deeds
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Prepared by and return to:
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STATE OF NORTH CAROLINA
 COUNTY OF BUNCOMBE

References: Deed Book 2265, Page 001
 Deed Book 4830, Page 815

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
 AND RESTRICTIONS FOR AVERY PARK**

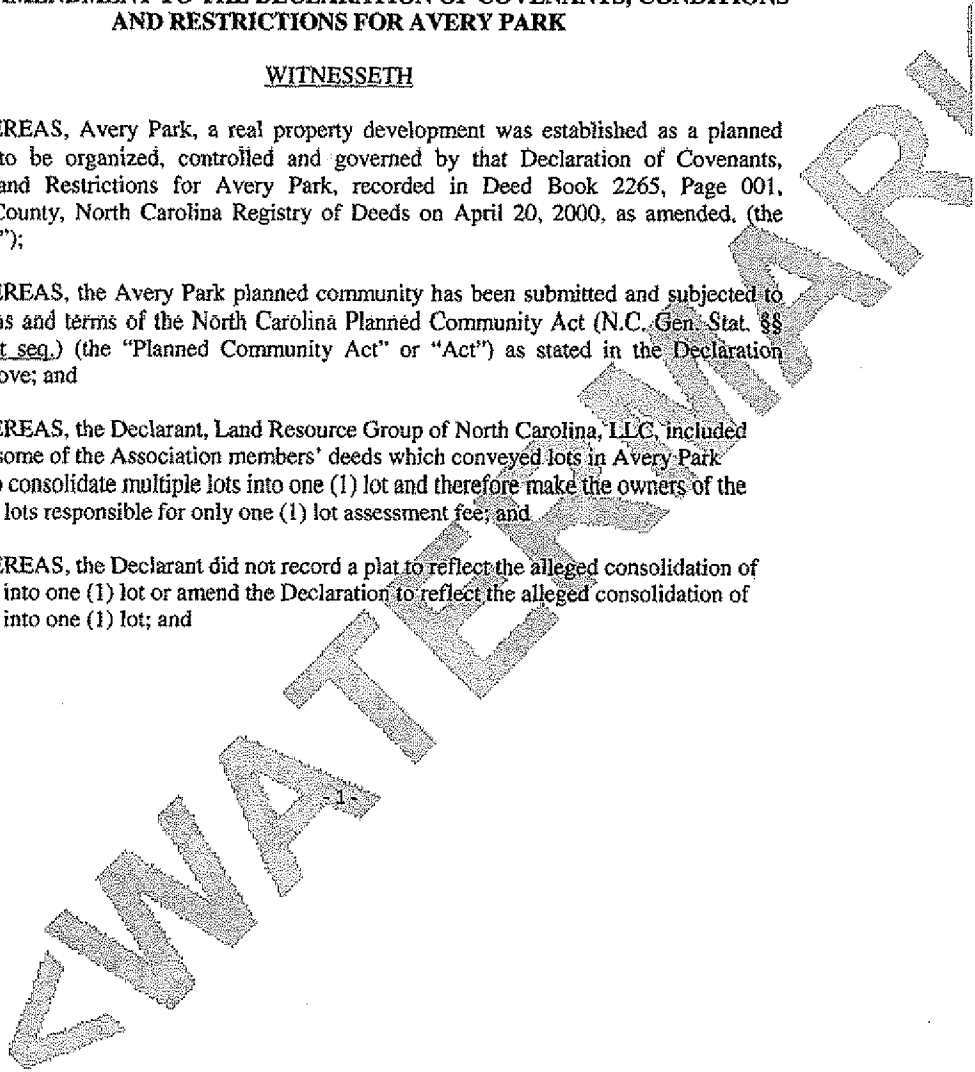
WITNESSETH

WHEREAS, Avery Park, a real property development was established as a planned community to be organized, controlled and governed by that Declaration of Covenants, Conditions and Restrictions for Avery Park, recorded in Deed Book 2265, Page 001, Buncombe County, North Carolina Registry of Deeds on April 20, 2000, as amended, (the "Declaration");

WHEREAS, the Avery Park planned community has been submitted and subjected to the provisions and terms of the North Carolina Planned Community Act (N.C. Gen. Stat. §§ 47F-1-101 et seq.) (the "Planned Community Act" or "Act") as stated in the Declaration described above; and

WHEREAS, the Declarant, Land Resource Group of North Carolina, LLC, included language in some of the Association members' deeds which conveyed lots in Avery Park purporting to consolidate multiple lots into one (1) lot and therefore make the owners of the consolidated lots responsible for only one (1) lot assessment fee; and

WHEREAS, the Declarant did not record a plat to reflect the alleged consolidation of multiple lots into one (1) lot or amend the Declaration to reflect the alleged consolidation of multiple lots into one (1) lot; and



WHEREAS, apparently the Declarant's representatives represented to certain prospective purchasers that if lot owners combined their lots with the Buncombe County Tax Department, the owners of the lots would be responsible for only one (1) lot assessment fee; and

WHEREAS, the Declarant did not amend the Declaration to explain the process or procedure for an owner of multiple lots to combine or consolidate their lots with the Association for assessment purposes; and

WHEREAS, certain lot owners combined their multiple lots with the Buncombe County Tax Department and expected to be responsible for only one (1) lot assessment fee on their multiple lots; and

WHEREAS, the Association had two separate attorneys advise the Association that as a Planned Community, the Association is obligated to levy assessments in accordance with the Declaration pursuant to N.C.G.S. § 47F-3-115(b) rather than according to language in lot owners' deeds or based on documentation that lot owners filed with the Buncombe County Tax Department; and

WHEREAS, the purpose of the amendment is to eliminate any existing ambiguity in the Declaration and explain the process and procedure for combining and consolidating lots in Avery Park for assessment purposes; and

WHEREAS, the owners of lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated affirmatively voted in favor of the adoption of this amendment; and

NOW THEREFORE, the Association membership hereby strikes the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Avery Park recorded in Deed Book 4830, page 815 of the Buncombe County Registry of Deeds and makes the following amendments to the Declaration:

Article 1, Paragraph 1.30 of the Declaration is hereby deleted and replaced by the following new Article 1, Paragraph 1.30:

1.30 "Lot" shall mean and refer to a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy as a residence for a single family.

The Declaration is further amended by striking the word "Unit" substituting the word "Lot" for the word "Unit" throughout the Declaration.

WATERMARK

The Declaration is further amended by adding the following Article 15 to the Declaration:

ARTICLE 15: COMBINING AND CONSOLIDATING LOTS IN AVERY PARK

All owners of multiple contiguous lots in Avery Park that want to combine or consolidate their lots for Association assessment purposes shall bring accounts for the years 2008, 2009, 2010 current within ninety (90) days of the recording of this Amendment with the Buncombe County Registry of Deeds. The owners of multiple lots in Avery Park that have language in their recorded deed (or in the chain of title for their recorded deed) stipulating that the owner of the multiple lots only have to pay one (1) assessment for multiple lots that are combining their lots pursuant to Article 15 will pay past due assessments based on the language in the deed. Any assessments paid to date to the Association will not be refunded by the Association.

No penalty or interest will be charged by the Association as long as the owner of the multiple lots pay the overdue assessments within ninety (90) days of the recording of this Amendment with the Buncombe County Registry of Deeds.

All owners of multiple contiguous lots in Avery Park that want to combine or consolidate their lots for Association assessment purposes shall comply with these requirements:

1. Within ninety (90) days of the recording of this Amendment with the Buncombe County Registry of Deeds, all owners of multiple lots which are contiguous who desire to combine or consolidate their multiple lots into one (1) lot must notify the Association's Management Company, IPM, in writing, of their intention to combine lots, identify the lots to be combined and the names of the record owners of the property. This time period shall be referred to as the "Ninety (90) day Notification Period".
2. After the owners have properly provided IPM with written notification of their intention to combine their lots, the owners shall complete the following tasks within one hundred and eighty (180) days of the recording of this Amendment with Buncombe County Registry of Deeds:
 - (a) Record a plat depicting the multiple lots combined as one (1) lot with the Buncombe County Registry of Deeds.
 - (b) Contact the Buncombe County Tax Office and request a single Parcel Identification Number (PIN) for the multiple lots combined into one (1) lot.
 - (c) Execute and record a lot combination document provided by the Association with the Buncombe County Registry of Deeds acknowledging that the lots can never be subdivided and that only one (1) residence can be built on the combined lots.

After the owners have provided the Association with evidence that they have complied with the lot combination requirements explained in Article 15 of the Declaration, owners will have the following assessment obligations and voting rights:

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Those owners with two (2) lots shall pay one and half (1 1/2) assessments for general assessments and special assessments and those with more than two (2) lots pay two (2) assessments for general assessments and special assessments.

Those owners with two (2) lots shall have one and half (1 1/2) votes when voting on Association matters and those with more than two (2) lots shall have two (2) votes when voting on Association matters.

After the Ninety (90) day Notification Period following the recording of this Amendment with the Buncombe County Registry of Deeds has passed, Avery Park lot owners will not be permitted to combine or consolidate their multiple lots into one (1) lot for Association assessment purposes.

Due to its very unique circumstances, High End Dry, LLC, owner of Lots 140 and 164 shall pay to have its property resurveyed and replatted as one (1) lot never to be resubdivided. The newly configured property will be considered one (1) lot and High End Dry, LLC will only be responsible for paying one (1) assessment and shall have only one (1) vote on Association matters. Association acknowledges and agrees that High End Dry, LLC will only have to pay one (1) assessment on past due assessments.

The Association shall levy assessments in accordance with the Declaration, as amended, pursuant to N.C.G.S. § 47F-3-115(b).

IN WITNESS WHEREOF, the undersigned officers of Avery Park Community Association, Inc. hereby certify that the above amendment to the Declaration for Avery Park is duly adopted by the Association and its membership in accordance with and pursuant to the Declaration.

This 16 day of December, 2010.

(Seal)

Avery Park Community Association, Inc.

by: Mary Ann Klag
President

Attest: [Signature]
Secretary

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NORTH CAROLINA
BUNCOMBE COUNTY

I JEANNE T. WARNER, Notary Public for said County and State, certify that JOHN K. MARTIN personally came before me this day and acknowledged that he is Secretary of Avery Park Community Association, Inc., a nonprofit 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, ~~sealed with its corporate seal~~, and attested by him as its Secretary.

Witness my hand and official seal, this the 16th day of DECEMBER, 2010.

(SEAL)

Jeanne T. Warner
Notary Public

Jeanne T. Warner
Notary Public
Buncombe County, NC
My Commission Expires
April 20, 2015

My commission expires APRIL 20, 2015

WATERMARTIN