

WAKE COUNTY, NC 185
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
07/27/2015 13:16:17

BOOK:016098 PAGE:00310 - 00318

Prepared by / Upon recording, please return to:

Jo Anne P. Stubblefield
Hyatt & Stubblefield, P.C.
1200 Peachtree Center, Harris Tower
233 Peachtree Street, N.E.
Atlanta, GA 30303

INDEXING NOTE TO CLERK'S OFFICE:

Please index in Grantor index under "NASH Wendell Falls, LLC" and "Dan Ryan Builders-North Carolina, LLC"
Please index in Grantee index under "Wendell Falls," and "Wendell Falls Community Association, Inc."
Please cross-reference to Declaration at Book 15834, Page 1690

STATE OF NORTH CAROLINA

COUNTY OF WAKE

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WENDELL FALLS
(PHASE 2B)**

This Supplemental Declaration of Covenants, Conditions and Restrictions for Wendell Falls ("**Supplement**") is made by NASH Wendell Falls, LLC, a Delaware limited liability company (the "**Declarant**"), with the joinder and consent of Dan Ryan Builders - North Carolina, LLC, a North Carolina limited liability company ("**Builder**").

Background Statement

The Declarant is the developer of the planned community located in Wake County, North Carolina known as Wendell Falls. The Declarant executed and filed that certain Declaration of Covenants, Conditions, and Restrictions for Wendell Falls recorded on November 10, 2014 in Deed Book 15834, Page 1690, *et seq.*, in the Office of the Register of Deeds of Wake County, North Carolina (as it may be amended and supplemented, the "**Declaration**").

Pursuant to Sections 9.1 and 9.3 of the Declaration, the Declarant reserved the right to expand the Wendell Falls residential community by recording one or more Supplemental Declarations submitting to the terms of the Declaration all or any portion of the property described on Exhibit "B" of the Declaration ("**Expansion Property**") and/or to impose on such property additional covenants and easements, with the consent of the owner of such property (if not the Declarant).

The property described on Exhibit "A" to this Supplement (the "**Additional Property**") is a portion of the Expansion Property described on Exhibit "B" to the Declaration.

As the owners of the Additional Property, the Declarant and Builder desire to submit the Additional Property to the terms of the Declaration and this Supplement.

NOW, THEREFORE, the Declarant, with the joinder and consent of Builder, hereby submits the real property described on Exhibit "A" of this Supplement to the provisions of the Declaration and this Supplement, which shall hereafter encumber the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Supplement shall also be binding upon Wendell Falls Community Association, Inc., a North Carolina nonprofit corporation (the "**Association**"), in accordance with the terms of the Declaration.

ARTICLE I **Definitions**

The definitions set forth in Article II of the Declaration are incorporated by reference in this Supplement.

ARTICLE II **Designation of Service Areas**

Pursuant to Section 7.3 of the Declaration, all or portions of the Additional Property have been assigned to the Service Area(s), if any, described on Exhibit "A" to this Supplement.

ARTICLE III **Additional Covenants, Restrictions and Easements**

The additional covenants, restrictions and easements, if any, set forth in Exhibit "B" of this Supplement shall apply to the Additional Property and shall be binding upon the owners and occupants of Units within the Additional Property, their guests and invitees, in addition to the terms of the Declaration, except to the extent that applicability is limited by the express terms of Exhibit "B" to Units within any Service Area identified on Exhibit "A".

ARTICLE IV
Amendment

4.1 By the Declarant.

Until termination of the Class "B" Control Period, the Declarant may unilaterally amend this Supplement for any purpose. Thereafter, until termination of the Development and Sale Period, the Declarant may unilaterally amend this Supplement to reflect any revisions or amendments to any plats referenced on Exhibit "A," and, provided the amendment has no material adverse effect upon any right of any Owner without such Owner's consent in writing, for any other purpose.

Notwithstanding this reserved right, a revision or amendment to a plat shall not require an amendment to this Supplement so long as no property is added or excluded from the plat by the revision or amendment thereto. The Declarant reserves the right to record revised, amended, or additional plats that only affect internal boundaries between lots, combine lots, or subdivide lots shown on the original plat and, so long as they do not alter the overall property submitted to the Declaration by this Supplement, such revised, amended or additional plats shall not necessitate an amendment to this Supplement.

4.2. By Owners.

Except as otherwise specifically provided in this Article IV, any amendment to the provisions set forth on Exhibit "B" of this Supplement shall require the affirmative vote or written consent, or any combination thereof, of Owners of at least 67% of the Units within the Service Area to which such provisions apply, and the written consent of the Association, acting through its board of directors. Any other amendment to this Supplement may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of at least 67% of the Units within the Additional Property and the written consent of the Association, acting through its board of directors. In addition, so long as the Declarant owns any Unit within the Additional Property, the consent of the Declarant shall be required to amend this Supplement in any manner.

4.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or without the written consent of the Declarant (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Supplement, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. No action to challenge the validity of an amendment may be brought more than two years after its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Supplement.

In witness of the foregoing, the Declarant has executed this Supplemental Declaration on the 21st day of July, 20 15

DECLARANT: NASH WENDELL FALLS, LLC, a Delaware limited liability company

By: [Signature]
Name: LAURIE M. FORD
Its: VICE PRESIDENT

STATE OF NORTH CAROLINA)

COUNTY OF Wake)

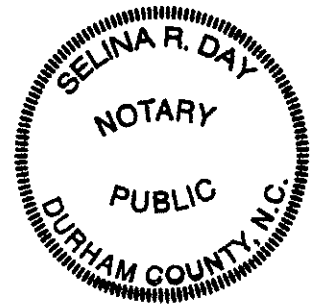
I, Selina R Day, a Notary Public in and for Durham County, North Carolina, certify that Laurie Ford personally came before me this day and acknowledged that s/he is Vice President of NASH WENDELL FALLS, LLC, a Delaware limited liability company, and that by authority duly given and as the act of said limited liability company, he executed the foregoing instrument on behalf of said limited liability company.

Witness my hand and official stamp or seal, this 21 day of July, 20 15

Selina R Day
Notary Public

My Commission Expires:
August 30 2019

[NOTARY SEAL]



JOINDER AND CONSENT OF BUILDER

The Builder, as the record owner of a portion of the Additional Property, hereby joins in execution of this Supplemental Declaration of Covenants, Conditions and Restrictions for Wendell Falls by and through its authorized representatives to evidence its consent to the same and to the Declaration referenced therein, this 24th day of JULY, 2015.

BUILDER: DAN RYAN BUILDERS - NORTH CAROLINA, LLC, a North Carolina limited liability company

By: Paul S. Yeager
Name: Paul S. Yeager
Its: SVP & CFO

Maryland
STATE OF NORTH CAROLINA)

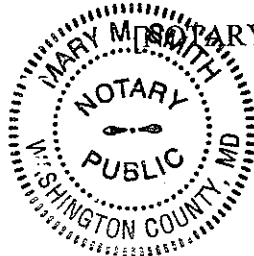
COUNTY OF Washington

I, Mary M Smith, a Notary Public in and for Washington County, Maryland ~~North Carolina~~, certify that Paul S. Yeager personally came before me this day and acknowledged that s/he is SVP and CFO of DAN RYAN BUILDERS-NORTH CAROLINA, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of said limited liability company, he executed the foregoing instrument on behalf of said limited liability company.

Witness my hand and official stamp or seal, this 24th day of July, 2015.

Mary M Smith
Notary Public

My Commission Expires:
5/30/14



MY
COMMISSION
EXPIRES
5/30/14

EXHIBIT "A"

Additional Property

ALL THAT TRACT OR PARCEL OF LAND lying and being in Wake County, North Carolina, and being more particularly described on that certain Final Subdivision, Easement and Right-of-Way Dedication Plat of Wendell Falls Development SF-2B recorded on July 15, 2015, in Book of Maps 2015, Page 1104-1109, in the office of the Register of Deeds of Wake County, North Carolina, as such plat may be revised from time to time (the "**Phase 2B Plat**").

Service Area Assignment:

Lots 156 through 181 are hereby assigned to **Service Area No. 1** for the purposes set forth on Exhibit "B."

EXHIBIT "B"

Additional Covenants, Restrictions, and Easements

1. Easements for Drainage, Access and Maintenance. The Founder hereby reserves, establishes and grants:

(a) a perpetual, nonexclusive easement in favor of each Unit within Service Area No. 1 (as described on Exhibit "A"), for the natural flow of stormwater from each such Unit over other Units within Service Area No. 1 to that 20' private drainage easement ("20' PVTDE") over Lots 159, 160, 161, 162, Lots 171-181, and Common Area 12 as shown on the Phase 2B Plat ("Private Drainage Easement") and over and through such Private Drainage Easement; and

(b) a perpetual, nonexclusive easement in favor of Wendell Falls Community Association, Inc. over each Unit within Service Area No. 1 burdened by any portion of a Private Drainage Easement as reasonably necessary or convenient for access to and performance of its maintenance responsibilities hereunder.

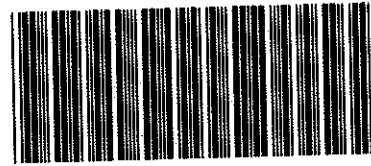
Each Owner of a Unit burdened by any portion of a Private Drainage Easement shall be responsible for landscaping and maintaining landscaping within that portion of the easement which burdens such Owner's Unit, shall keep such portion free and clear of obstructions that interfere with the flow of stormwater through such easement, and, subject to such approval as required under Article IV of the Declaration, shall be responsible for taking such steps as the Owner may deem necessary to control erosion on its Unit and protect such Owner's personal property and improvements from damage due to stormwater flows resulting from storm events.

2. Maintenance of Private Drainage Easements within Service Area No. 1:

(a) Unless and until responsibility for maintenance of a Private Drainage Easement is accepted by a governmental body, the Association shall be responsible for maintaining any structures and improvements installed by the Founder within the Private Drainage Easement described in Paragraph 1 above and any replacements thereof so that they function in the manner and for the purpose for which they were designed and intended. The Association shall have the right to cut and clear any undergrowth and remove other obstructions within the Private Drainage Easement which may in any way endanger or interfere with the proper functioning of the same. All costs incurred by the Association in performing its responsibilities hereunder shall be a Service Area Expense to be allocated equally among the Units within Service Area No. 1 and levied as a Service Area Assessment pursuant to Article VIII of the Declaration.

(b) Each Owner acknowledges that severe weather events may occur from time to time which cause stormwater flows to exceed the capacity of the private drainage easements and the facilities and improvements therein. Nothing herein shall make the Association liable for any damage to personal property or improvements on any Unit resulting from stormwater flows that exceed the capacity of the stormwater facilities within the Private Drainage Easement.

3. **Maintenance of Slopes on Units.** In accordance with Section 5.1 of the Declaration, each Owner is responsible for maintaining such Owner's Unit in a manner consistent with the Governing Documents, the Community-Wide Standard and all applicable covenants. Such responsibility shall specifically include landscaping and maintenance of any natural areas and slopes on the Unit in a neat and attractive condition, whether located inside or outside of any fence or yard area on the Unit. In the event that any Owner fails to maintain any portion of his or her Unit as required hereunder, the Association shall have a right to enter upon the Unit and perform such maintenance and assess all costs incurred to the Owner of such Unit as a Specific Assessment. Furthermore, the Association shall have the right to assume responsibility for maintenance of the slope on any Unit served or burdened by the Private Drainage Easement described above if the Board determines that such assumption of responsibility is appropriate to maintain the Community-Wide Standard and, in such event, may allocate the costs of such slope maintenance equally among the Units on which the slope is located and levy a Specific Assessment against each such Unit for its share of such costs; however, it shall give written notice to the Owners of such Units prior to assuming such responsibility.



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**WAKE
COUNTY**

NORTH CAROLINA

Please retain yellow trailer page

It is part of the recorded document and must be submitted with the original for re-recording.

Laura M. Riddick

Register of Deeds

Wake County Justice Center

300 South Salisbury Street, Suite 1700

Raleigh, NC 27601

New Time Stamp

\$25 Non-Standard Fee

Additional Document Fee

Additional Reference Fee

This Customer Group

_____ # of Time Stamps Needed

This Document

_____ *a* # of Pages *k*