

**Prepared by / Upon recording, please return to:**

Jo Anne P. Stubblefield  
Hyatt & Stubblefield, P.C.  
1979 Lakeside Parkway, Suite 250  
Atlanta, GA 30084

**INDEXING NOTE TO CLERK'S OFFICE:**

Please index in Grantor index under "NASH Wendell Falls, 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 8C, COMMON AREAS #57, #58, #59 AND R/W)**

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**").

**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 ("**ROD Office**"), which has been amended by that instrument recorded November 29, 2016 at Book 16618, Page 1624, *et seq.* and by that instrument recorded August 24, 2018 at Book 17224, Pages 194, *et seq.* (as now and hereafter 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 imposing on the property described therein 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 owner of the Additional Property, the Declarant desires to submit the Additional Property to the terms of the Declaration and this Supplement.

NOW, THEREFORE, the Declarant 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 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 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 26th day of February, 2020.

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

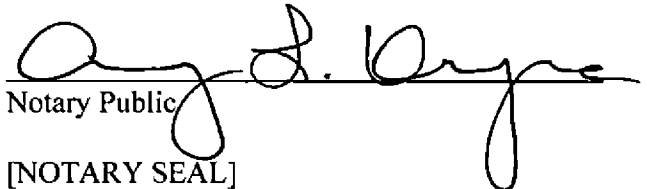
By:   
Name: Tanya Matzen  
Its: Authorized Signatory

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF Wake )

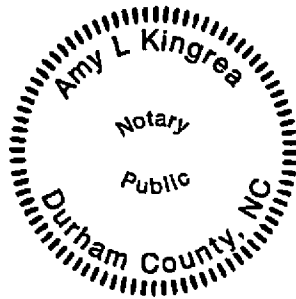
I, Amy L. Kingrea, a Notary Public in and for Durham County, North Carolina, certify that Tanya Matzen personally came before me this day and acknowledged that she is an Authorized Signatory of NASH WENDELL FALLS, LLC, a Delaware limited liability company, and that by authority duly given and as the act of said limited liability company, she executed the foregoing instrument on behalf of said limited liability company.

Witness my hand and official stamp or seal, this 26th day of February, 2020.

My Commission Expires:  
6/23/2020

  
Notary Public  
[NOTARY SEAL]

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**EXHIBIT "A"**

**Additional Property**

ALL THOSE TRACTS OR PARCELS 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 PHASE 8C recorded on February 26, 2020, in Book of Maps 2020, Pages 318 - 320, in the office of the Register of Deeds of Wake County, North Carolina, and as such plat may be revised from time to time.

**Service Area Assignments:**

Lots 1209 through 1220 and Lots 1175 through 1181 are hereby assigned to **Service Area No. 4** for the purposes described in Exhibit "B."

**EXHIBIT "B"****Additional Covenants, Restrictions, and Easements**

1. **Easements for Drainage, Access and Maintenance.** The Declarant hereby establishes and grants a perpetual, nonexclusive easement over, through and under that 20' private drainage easement denoted "20' PVTDE" on Common Area #59 and Lots 1174 and 1175 as shown on the Plat referenced in Exhibit "A" ("**Private Drainage Easement**");

(a) in favor of each Unit within Service Area No. 4 (as described on Exhibit "A") and that "Variable Width Private R/W" adjacent to Lots 1209 through 1220 as shown on the Plat, for the natural flow of stormwater over and through such Private Drainage Easement;

(b) in favor of Wendell Falls Community Association, Inc. as reasonably necessary or convenient for access to and performance of its maintenance responsibilities under Section 2 of this Exhibit "B."

Each Owner of a Unit burdened by any portion of such 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 exercise of the 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 Easement; Service Area Expense.**

(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 Declarant 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 with respect to the Private Drainage Easement shall be a Service Area Expense to be allocated equally among the Units within **Service Area No. 4** 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

**EXHIBIT "B"****Additional Covenants, Restrictions, and Easements**

(continued)

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.

2. **Sidewalk Easement.** Declarant hereby reserves to itself and grants to the Association a perpetual, nonexclusive easement over that area denoted on the Plat as a sidewalk easement or "SWE" (or similarly denoted as a sidewalk easement), for construction, maintenance, repair, and replacement of a sidewalk, path, or trail (such easement being referred to herein as a "**Sidewalk Easement**" and any such sidewalk, path or trail being referred to herein as a "**Sidewalk**"), and for access to construct, inspect, and perform maintenance and repairs to and replacements of, any such Sidewalk, which Sidewalk Easement may be exercised by the Association, its officers, directors, employees, agents, and contractors.

Notwithstanding any provision of the Declaration or any Plat which would make the Owners of Burdened Units responsible for maintenance of that portion of any Sidewalk constructed on their respective Units, the Association shall be responsible for maintaining, insuring, repairing and replacing any such Sidewalks. Any modifications to a Sidewalk by any person other than the Association or its authorized representatives or contractors shall be subject to prior approval of the Reviewer pursuant to the procedures set forth in Article IV of the Declaration, and the Association shall have no liability arising out of any repair work performed by Persons other than the Association or its contractors.

All costs which the Association incurs or expects to incur in maintaining, repairing, replacing, and insuring any Sidewalk, including any reasonable reserves for such purposes, shall be a Common Expense to be allocated equally among all Units subject to the Declaration, subject to the right of the Association to recover from the Owner of a Unit, as a Specific Assessment, any costs which the Association incurs in maintaining, repairing or replacing any damaged portion of the retaining wall when such damage has been caused by the negligence or other actions of such Owner or any occupant of such Owner's Unit, or their guests or invitees.

The Association shall have no responsibility for maintenance of any sidewalk constructed on a Unit by a Builder, Owner, or other person outside of Sidewalk Easements denoted on a Plat executed and recorded by the Declarant, and any such sidewalks shall be the sole responsibility of the Owner(s) of the Unit(s) upon which they are constructed, subject to the terms of Article XIII of the Declaration, if applicable.

3. **Retaining Wall Easement.** Declarant hereby reserves to itself and grants to the Association a perpetual, nonexclusive easement over that area denoted on the Plat as a retaining wall easement or "RWE" (or similarly denoted as a private retaining wall or wall easement), for construction, maintenance, repair, and replacement of a retaining wall (any such easement being referred to herein as a "**Wall Easement**" and any such retaining wall being referred to herein as a "**Retaining Wall**"), and for access to construct, inspect, and perform maintenance and repairs to

**EXHIBIT "B"****Additional Covenants, Restrictions, and Easements**

(continued)

and replacements of, such Retaining Wall, which Wall Easement may be exercised by the Association, its officers, directors, employees, agents, and contractors. There shall be appurtenant to each Unit burdened by a Wall Easement (each a "**Burdened Unit**"), a perpetual, reciprocal easement over any adjacent Burdened Unit or Common Area upon which any portion of a Retaining Wall is constructed as reasonably necessary for purposes of support, access to inspect the Retaining Wall, and for the exercise of any of the other easement rights granted to the Association hereunder in the event that the Association fails to perform any necessary maintenance or repairs, as provided herein.

Notwithstanding any provision of the Declaration or any Plat referenced in Exhibit "A" which would make the Owners of Burdened Units responsible for maintenance of that portion of any Retaining Wall constructed on their respective Units, the Association shall be responsible for maintaining, insuring, repairing and replacing such Retaining Walls. Any modifications to a Retaining Wall by any person other than the Association or its authorized representatives or contractors shall be subject to prior approval of the Reviewer pursuant to the procedures set forth in Article IV of the Declaration, and the Association shall have no liability arising out of any repair work performed by Persons other than the Association or its contractors.

All costs which the Association incurs or expects to incur in maintaining, repairing, replacing, and insuring any Retaining Wall, including any reasonable reserves for such purposes, shall be a Common Expense to be allocated equally among all Units subject to the Declaration, subject to the right of the Association to recover from the Owner of a Unit, as a Specific Assessment, any costs which the Association incurs in maintaining, repairing or replacing any damaged portion of the retaining wall when such damage has been caused by the negligence or other actions of such Owner or any occupant of such Owner's Unit, or their guests or invitees.

The Association shall have no responsibility for maintenance of any retaining or other wall constructed on a Unit by a Builder, Owner, or other person outside of Wall Easements denoted on a Plat executed and recorded by the Declarant, and any such walls shall be the sole responsibility of the Owner(s) of the Unit(s) upon which they are constructed, subject to the terms of Article XIII of the Declaration, if applicable.