

After recording, please return to:
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Decatur, Georgia 30030
(404) 687-9977

CROSS REFERENCE: Deed Book: 47862
Page: 90

**FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS
AND EASEMENTS FOR BRAEBURN OFFICE VILLAGE**

THIS FIRST AMENDMENT TO THE DECLARATION OF PROTECTIVE COVENANTS AND EASEMENTS FOR BRAEBURN OFFICE VILLAGE (hereinafter referred to as "Amendment") is made this 12th day of May, 2016 by **BRAEBURN OFFICE VILLAGE ASSOCIATION, INC.**, a Georgia nonprofit corporation (hereinafter referred to as "Association") and **JW HOMES, LLC**, a Delaware limited liability company (hereinafter sometimes referred to as "Declarant").

WITNESSETH

WHEREAS, John Wieland Homes and Neighborhoods, Inc., a Georgia corporation ("JWHN"), as "Declarant," executed that certain Declaration of Protective Covenants and Easements for Braeburn Office Village, which was recorded on April 24, 2009 in Deed Book 47862, Page 90, *et seq.*, Fulton County, Georgia records (hereinafter as supplemented and/or amended from time to time, the "Declaration"); and

WHEREAS, JWHN assigned all of its rights as Declarant under the Declaration to JW Homes, LLC, a Delaware limited liability company, pursuant to that certain Assignment of Declarant's Rights, recorded November 19, 2012 in Deed Book 51909, Page 382, *et seq.*, Fulton County, Georgia land records; and

WHEREAS, the Association is a nonprofit corporation organized under the Georgia Nonprofit Code to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, the Association and the members desire to amend the Declaration as set forth herein and intend for this Amendment to be prospective only; and

WHEREAS, pursuant to Article XI, Section 4 of the Declaration, the Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Owners of at least two-thirds (2/3) of the Units and the consent of Declarant; and

WHEREAS, Owners of at least two-thirds (2/3) of the Units have agreed by written ballot to amend the Declaration as provided herein, which ballots are incorporated herein by this reference; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the Secretary of the Association, which sworn statement states that: (a) Owners of at least two-thirds (2/3) of the Units agreed to the foregoing Amendment; and (b) the consent of Owners of at least two-thirds (2/3) of the Units was lawfully obtained; and

WHEREAS, Declarant hereby consents to this Amendment as evidenced by the signature attached hereto and by this reference incorporated herein;

NOW THEREFORE, the undersigned hereby adopt this First Amendment to the Declaration of Protective Covenants and Easements for Braeburn Office Village, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

The Declaration is hereby amended by deleting Article V, Section 1, entitled "Association's Responsibility," in its entirety and replacing it with a new Section 1 to read as follows:

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the "Area of Common Responsibility," which includes all Common Property. The Area of Common Responsibility shall include, but not be limited to, the following: (a) entrance signage, but not the islands within the public road; (b) irrigation sprinkler systems; (c) the private drives and parking spaces serving the Units; (d) walkways, ramps, sidewalks and breezeways; (e) monument signage other than sign panels maintained by Unit Owners; (f) trash dumpsters and screened or other areas containing same; (g) landscaping in the Office Village as provided in Article V, Section 6 hereof; (h) the stormwater detention pond, pipes and related facilities serving the Common Property and McFarlin Lane and located in the adjacent residential townhome phase west of the Office Village; and (i) the master water meter serving the Community as provided in Section 5 below. Except to the extent that insurance required to be maintained or maintained by the Association covers any damage or loss and except as otherwise provided herein, the Association shall not be responsible for any maintenance or repair to any Unit. The Association shall be authorized and shall

have the obligation to cause the Area of Common Responsibility to be maintained and operated in a first-class condition consistent with the Office Village-Wide Standard. The Association shall provide the services required with respect to the Area of Common Responsibility in order to operate and maintain the Office Village as a first-class project. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Property by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to, landscaping of Common Property) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair. In the event that the Association determines that the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment.

The Association shall not be liable for injury or damage to person or property caused by or resulting from the elements, the Owner of any Unit, any other Person, any utility, snow or ice which may leak or flow from any portion of the Common Property, or any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to any Owner, or any Owner's Occupants, guests or employees, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupants, invitees, licensees, guests or employees, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or any inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or any action taken by the Association to comply with any law, ordinance, order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such Persons, firms or corporations of its choice such duties as are approved by the Association. The foregoing maintenance shall be performed consistent with the Office Village-Wide Standard.

2.

The Declaration is hereby amended by deleting Article 5, Section 2, entitled "Owner's Responsibility," in its entirety and replacing it with a new Section 2 to read as follows:

Section 2. Owner's Responsibility. Except for maintenance performed on or to a Unit by the Association pursuant to Sections 1 and 6 hereof, if any, all maintenance of the Unit and all structures and improvements located thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Unit in a manner consistent with the Office Village-Wide Standard and this Declaration. Such maintenance obligation shall include, without limitation, the following: (i) prompt removal of all litter, trash, refuse, and waste; (ii) keeping improvements and exterior lighting in good repair and working order; (iii) complying with all governmental health and police requirements; (iv) maintaining all exterior building surfaces, including, without limitation, the periodic painting and pressure washing of the exterior surfaces of the Unit, including, without limitation, the exterior siding, doors, and trim of the Unit; (v) repairing exterior damage to improvements; (vi) all downspouts and gutters; and (vii) maintaining, repairing and replacing all pipes, wires and conduits, including, without limitation, plumbing, electric and sanitary sewer systems, which exclusively serve the Unit. In the event that the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall have all rights and remedies set forth in the Declaration, including, without limitation, the right to provide any such maintenance, repair or replacement to the Unit and assess the costs of such maintenance, repair or replacement against the Owner and the Unit as a specific assessment, as more particularly set forth in Article V, Section 3 of the Declaration.

3.

The Declaration is hereby amended by adding to the end of Article V a new Section 6, entitled "Landscaping Maintenance," to read as follows:

Section 6. Landscaping Maintenance. Except as may be otherwise determined by the Board as provided herein, the Association shall maintain and keep in good repair the landscaping improvements located on the exterior portions of the Office Village (whether or not constituting Common Property), including, without limitation, green space, and open space. Such maintenance shall be performed at a level to be determined in the sole discretion of the Board. The Board of Directors in its sole discretion may leave portions of the Office Village as undisturbed natural areas and may change the landscaping in the Office Village at any time and from time to time. Owners shall not add, remove or modify trees, shrubs, bushes, plants or other vegetation to the exterior portions of the Office Village maintained by the Association without prior written approval pursuant to Article VI, Section 8 of the Declaration. The Board of Directors may promulgate rules setting forth the extent of landscaping maintenance to be performed by the Association and the rights of Owners with respect to adding or modifying landscaping improvements, including, for example allowing seasonal flowering plants in certain areas of the Office Village at the expense of the Owner. Landscaping improvements installed by the Owner in accordance with the provisions of this Declaration shall become the property of the

Association. Any exterior landscaping improvements, whether originally installed by an Owner or the Association or in the initial development of the Office Village, may, at the sole discretion of the Board of Directors, be removed from the Office Village. The costs associated with removing any trees, shrubs, bushes, plants or other vegetation installed by an Owner in violation of this Section may be assessed against the Owner and the Unit as a specific assessment pursuant to the Declaration.

4.

Unless otherwise defined herein, the words used in this Amendment shall have the same meaning as set forth in the Declaration.

5.

This Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Fulton County, Georgia and shall be enforceable against current Owners of a Unit subject to the Declaration.

6.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed under seal the day and year first above written.

ASSOCIATION: **BRAEBURN OFFICE VILLAGE ASSOCIATION, INC.**, a Georgia nonprofit corporation

By: J.T. McMickle
Name: J.T. McMickle
President

~~Attest: _____
Name: _____
Secretary~~

Signed, sealed and delivered in the presence of

Andrew McBrinn
Witness Andrew McBrinn

Jennifer Bojdak
Notary Public

[CORPORATE SEAL]



[AFFIX NOTARY SEAL]



IN WITNESS WHEREOF, the Association has caused this Amendment to be executed under seal the day and year first above written.

ASSOCIATION: **BRAEBURN OFFICE VILLAGE ASSOCIATION, INC.**, a Georgia nonprofit corporation

~~By: J.T. McMickle
Name: JT McMickle
President~~

Attest: [Signature]
Name: SEPPREY LAURENCE
Secretary

Signed, sealed and delivered in the presence of

[CORPORATE SEAL]

[Signature]
Witness

Pamela Cirame
Notary Public



[AFFIX NOTARY SEAL]



IN WITNESS WHEREOF, the Declarant hereby consents to, approves and executes this Amendment under seal, this 12th day of May, 2016.

DECLARANT: **JW HOMES, LLC**, a Delaware limited liability company

By: Residential Partners, LLC, a Delaware limited liability company, its Sole Member

By: JT McNickle (SEAL)
Name: JT. McNickle
Title: Authorized Signatory

Signed, sealed and delivered in the presence of

Andrew McBride
Witness Andrew McBride

Jennifer Bojdak
Notary Public

[AFFIX NOTARY SEAL]



EXHIBIT "A"

Sworn Statement of Secretary of
Braeburn Office Village Association, Inc.

STATE OF ~~GEORGIA~~ Massachusetts
COUNTY OF ~~FULTON~~ Suffolk

Re: Braeburn Office Village

Personally appeared before me, the undersigned deponent who, being duly sworn, deposited and said on oath that:

1. Deponent is the Secretary of Braeburn Office Village Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his or her own personal knowledge.
3. The foregoing First Amendment to the Declaration of Protective Covenants and Easements for Braeburn Office Village ("Amendment") was approved by Owners of at least two-thirds (2/3) of the Units as provided by law and the Declaration, which approval was lawfully given and obtained.
4. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20 and Article XI, Section 4 of the Declaration.

This the 12th day of May, 2016.

By: 
Name: Jeffrey Lawrence

Sworn to and subscribed before me
this 10th day of May,
2016.


Notary Public



[AFFIX NOTARY SEAL]