

CROSS REFERENCE

GEORGIA, FULTON COUNTY
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1995 JUN 16 AM 8 30

JUANITA HICKS
CLERK, SUPERIOR COURT

FIFTH AMENDMENT TO THE
DECLARATION OF PROTECTIVE
COVENANTS AND EASEMENTS
FOR
BRIERFIELD

THIS FIFTH AMENDMENT to the Declaration of Protective Covenants and Easements for Brierfield is made this 8th day of June, 1995 by CRABAPPLE PROPERTIES, LTD., a corporation authorized to do business in the State of Georgia, hereinafter represented by John H. Fetzer, III, its President, duly authorized, hereinafter referred to interchangeably as "Declarant" and/or "Developer".

W I T N E S S E T H:

WHEREAS, the "Declaration of Protective Covenants and Easements for Brierfield" dated July 27, 1992, is recorded at Deed Book 15529, Page 320, Fulton County, Georgia records (hereinafter referred to as "Declaration").

WHEREAS, the "First Amendment to the Declaration of Protective Covenants and Easements for Brierfield" dated September 7, 1993 is recorded at Deed Book 17217, Page 104, Fulton County, Georgia records (hereinafter referred to as "First Amendment");

WHEREAS, by virtue of the provisions contained in the First Amendment, Lots 11 and 75, Brierfield, Phase One and Brierfield, Phase Two were subjected to the provisions of the Declaration;

WHEREAS, the "Second Amendment to the Declaration of Protective Covenants and Easements for Brierfield" dated May 30, 1994 is recorded at Deed Book 18392, Page 342, Fulton County, Georgia records (hereinafter referred to as "Second Amendment");

WHEREAS, the "Third Amendment to the Declaration of Protective Covenants and Easements for Brierfield" dated January 26, 1995, is recorded at Deed Book 19255, Page 097, Fulton County, Georgia records (hereinafter referred to as "Third Amendment");

WHEREAS, by virtue of the provisions contained in the Third Amendment, Lots 1 through 28, both inclusive, and Lots 64, 65, and 66, Brierfield, Phase Three A were subjected to the provisions of the Declaration;

WHEREAS, the "Fourth Amendment to the Declaration of Protective Covenants and Easements for Brierfield" dated May 31, 1995 is recorded in Deed Book _____, Page _____, Fulton County, Georgia records (hereinafter referred to as "Fourth Amendment");

WHEREAS, by virtue of the provisions contained in the Fourth Amendment, a tract of land consisting of 3.6233 acres designated as Tract B on a survey by Samuel G. Evans, Jr., dated December 1, 1992 and revised July 7, 1993 ("Tract B") were subjected to the provisions of the Declaration. Tract B is more particularly described in Exhibit "A" which is attached and annexed to the Fourth Amendment.

WHEREAS, Developer wishes to subject certain additional real property to the provisions contained in the Declaration by amendment pursuant to Article I, Section 12;

THEREFORE, Developer does hereby amend and supplement the Declaration by adding to the provisions of the Declaration the following paragraphs:

1.

The Preamble of the Declaration is hereby amended by adding the following paragraphs:

BOOK 19664 PAGE 111

"WHEREAS, Developer is the owner of a certain tract or parcel of land lying and being in Land Lots 1175, 1176, 1201 and

1202 of the Second District, Second Section, Fulton County, Georgia, being more particularly described in Exhibit "A" attached hereto and by reference incorporated herein ("additional property");

"WHEREAS, that portion of the additional property as shown on the Plat as hereinafter defined shall also be and hereby is subjected to the covenants, restrictions, easements, assessments and liens hereafter set forth and which, by virtue of the recording of this Amendment, shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to this Declaration."

2.

Article I, Section 11 of the Declaration is hereby amended and supplemented so that same shall henceforth read as follows:

"11.

"Plat" shall mean and refer 1) to that certain Final Subdivision Plat for Brierfield prepared by Brumbelow-Reese and Associates, Inc. dated July 14, 1992 and recorded in Plat Book 174, Page 88; 2) the "Final Plat for Brierfield, Phase One" dated August 17, 1993, recorded in Plat Book 178 at Page 81 on August 31, 1993; 3) the "Final Plat for Brierfield, Phase Two" dated November 1, 1993 recorded in Plat Book 179, Page 29 on November 12, 1993; 4) the "Final Plat for Brierfield, Phase Three A" dated December 29, 1994, recorded in Plat Book 184, Page 73 on February 10, 1995; 5) the "Final Plat for Brierfield, Phase Three B" dated May 25, 1995, recorded in Plat Book 186, Page 3 on May 30, 1995, and any other subsequent Final Plat of any additional property recorded in the office of the Clerk of Superior Court of Fulton County, Georgia."

3.

Article I, Section 12 of the Declaration is hereby amended and supplemented so that same shall henceforth read as follows:

"12.

"Property" shall mean and refer to the real properties described in the Declaration (Brierfield, Phase One), in the First Amendment (Lots 11 and 75, Brierfield, Phase One and Brierfield, Phase Two), in the Third Amendment (Lots 1 through 28, both inclusive and Lots 64, 65, and 66, Brierfield, Phase Three A) and the Fifth Amendment (Lots 29 through 63, both inclusive, Brierfield, Phase Three B, having those dimensions and measurements as shown on the Final Plat for Brierfield, Phase Three B dated May 25, 1995, recorded in Plat Book 186, Page 3 on May 30, 1995, together with such additional real property as may by subsequent amendment be added to and subjected to this Declaration."

Except as specifically set forth herein, the original Declaration as amended hereinbefore referred to shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the undersigned has caused its hand and seal to be affixed as of the day and year first above written.

Signed, sealed and delivered
in the presence of the follow-
ing unofficial witnesses:

Donna R. Hadley

Mia Vincent

DECLARANT:

CRABAPPLE PROPERTIES, LTD.

BY:

John H. Fetzer, III
President

Sylvia C. Rabalais
NOTARY PUBLIC
SYLVIA C. RABALAIS

Notary Public in and for the
Parish of East Baton Rouge,
State of Louisiana

My commission expires: at death

