



Doc ID: 033884890007 Type: CRP
Recorded: 07/29/2020 at 02:07:33 PM
Fee Amt: \$26.00 Page 1 of 7
Workflow# 0000631100-0002
Buncombe County, NC
Drew Reisinger Register of Deeds
BK 5928 PG 953-959

CA

✓ Prepared by and return to: David L. English, Esq., Roberts & Stevens, P.A., P.O. Box 7647, Asheville, NC 28802, Box 39.

STATE OF NORTH CAROLINA

FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

COUNTY OF BUNCOMBE

THIS FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION FOR THE SUMMIT AT HAMBURG MOUNTAIN (the "Amendment" or "Fourth Amendment") is made this the 29th day of July, 2020, by and between The Summit at Hamburg Mountain Homeowners Association, Inc., a North Carolina not-for-profit corporation (the "Association"), Yalier Farinas and Karina Farinas, husband and wife (collectively "Farinas"), and all present and future owners of property within the Summit at Hamburg Mountain Subdivision, as the same is more particularly described herein (the "Owners"); the Association, Farinas, and the Owners being sometimes hereinafter referred to collectively as the "Parties", and singularly as a "Party".

WITNESSETH:

WHEREAS, the Association is the governing association of homeowners for The Summit at Hamburg Mountain Subdivision (the "Subdivision"), as the same is described in that certain Declaration of Covenants, Conditions and Restrictions recorded in Book 4465, Page 1213 of the Buncombe County Registry, as amended (the "Declaration"); and,

WHEREAS, the Subdivision is shown on the plat recorded in Plat Book 114, at Page 22 of the Buncombe County Registry (the "Plat"); and,

WHEREAS, Farinas is the Owner of Lot 18 as shown on the Plat (“Lot 18” or the “Neighborhood”); and,

WHEREAS, Farinas acknowledges and agrees that Lot 18 is a Lot as defined in the Declaration, is part of the Property within the Subdivision, and was and remains subject to the Declaration in all respects; and,

WHEREAS, Farinas desires to amend and supplement certain use restrictions as set forth in the Declaration applicable to Lot 18, and the Association and Owners are willing to amend and supplement such restrictions, subject to the terms and conditions contained herein; and,

WHEREAS, after proper notice as required by Section 11.04 of the Declaration, more than seventy-five percent (75%) of the votes of Members of the Association have approved this Fourth Amendment, finding that it is consistent with the design, scheme and purposes of the Declaration; and,

WHEREAS, Farinas has executed this Amendment evidencing his consent to the additional restrictions on the use of Lot 18 contained herein, which restrictions shall run with the land and be binding upon all present and future owners of Lot 18, and any subdivision thereof as contemplated herein.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Creation of Neighborhood.** This Amendment, and such additional and supplemental covenants, conditions, and restrictions as are specifically set forth herein, shall apply to Lot 18, and shall govern the use, occupation, and ownership of Lot 18, and all subdivided Lots within Lot 18 (which shall be referred to collectively as the “Neighborhood”) as may be created as more particularly set forth herein, and no other properties within the Property.

2. **Intent.** It is the intent of the Parties that this Amendment supplement and compliment the covenants, conditions, and restrictions contained within the Declaration. Except as specifically modified herein, the Declaration shall be and remain the same, and shall apply to Lot 18 in its entirety. Except as specifically limited herein, Lot 18, and any Neighborhood created by a subdivision thereof as permitted herein, shall have and receive all services and benefits received by the Lots within the Subdivision located outside Lot 18 and any such Neighborhood. Except as specifically set forth herein, all capitalized terms in this Amendment shall have the same meaning as that set forth in the Declaration. In the event of a conflict between the terms and conditions contained within this Amendment and those set forth in the Declaration, the terms of the Declaration shall control.

3. **Supplemental Covenants, Conditions, and Restrictions Applicable to Lot 18.** The Parties agree that Lot 18 is hereby subjected to the following covenants, conditions, and restrictions (the “Neighborhood Restrictions”):

- a. Subdivision of Lot 18. Notwithstanding the provisions of the Declaration to the contrary, Lot 18 may be further subdivided, subject to the following terms and conditions:
- i. Lot 18 may only be subdivided once into a Neighborhood of not more than six (6) Lots by recording a plat in the Buncombe County, North Carolina Registry identifying each of the subdivided Lots, all common roadways, the centerline of which shall be the boundary of the Lots adjoining such common roadway, applicable set-back in accordance with the Declaration, and such other items as the Association may reasonably request (the "Neighborhood Plat"). Once Lot 18 is subdivided, there shall be no re-subdivision of any previously subdivided Lot within the Neighborhood. Further, the boundary of any such subdivided Lot shall not be altered in any manner without the prior written consent of the Association, which consent shall not be unreasonably withheld, conditioned, or delayed.
 - ii. The Declaration, including without limitation this Amendment and all future amendments thereto, shall apply to each Lot created pursuant to the subdivision of Lot 18 as identified on the Neighborhood Plat.
 - iii. Except as specifically provided herein, Lot 18, and each Lot created pursuant to the subdivision of Lot 18, shall be subject to all Assessments levied hereunder and pursuant to the Declaration.
 - iv. The Owner of Lot 18, and each Lot created pursuant to the subdivision of Lot 18, shall be a member of the Association, and except as limited herein, entitled to one (1) vote on matters coming before the Association, in accordance with the Declaration and Association Bylaws.
- b. Limitation on Assessment Payable by Farinas. Until such time as Farinas has transferred title to Lot 18, or any Lot created pursuant to the subdivision of Lot 18, whether by inheritance, devise, or otherwise, or commenced construction of a dwelling upon Lot 18, or any Lot created pursuant to the subdivision of Lot 18, Farinas shall be exempt from Assessments. Farinas shall not be entitled to a vote on Association matters in connection with any Lot created pursuant to the subdivision of Lot 18, until such time as such Lot shall be subject to Assessment hereunder. The foregoing exemption from Assessment is personal to Farinas, and may not be transferred or assigned.
- c. Maintenance of Common Areas within Neighborhood. The roadways and any other Common Areas situated within the Neighborhood shall be constructed, maintained, repaired, and replaced by the Owner of Lot 18, or the Owners of Lots within the Neighborhood created pursuant to the subdivision of Lot 18, at the expense of such Owners. The Association shall have no responsibility for the construction, maintenance, repair, or replacement of any roadway or other

Common Area situated within Lot 18, or the Neighborhood created pursuant to the subdivision of Lot 18.

- d. Utility Easements. Nothing contained herein or within the Declaration shall be deemed to prohibit Farinas, or his successors or assigns, from obtaining easements for utilities serving Lot 18, including water, cable, or electric utility service, over and across properties situated outside of the Subdivision.

4. General. The term of this Amendment shall run concurrently with the term of the Declaration. This Amendment, and the Neighborhood Restrictions, may be amended in accordance with the procedure for amendment as set forth in the Declaration. The Neighborhood Restrictions are intended to and shall be appurtenant to and run with the land and shall be kept by Farinas, and upon conveyance of Lot 18, or any Lot created pursuant to the subdivision of Lot 18, or if same shall be acquired by inheritance, devise or otherwise, the Neighborhood Restrictions shall be binding and in full force and effect as running with the land, and the said Grantees, their heirs, devisees, executors, administrators, successors and assigns, fully acknowledge the same and agree to keep and perform the same forever. The Neighborhood Restrictions shall be enforceable by the Association or any Lot Owners, in accordance with the Declaration. Invalidity of any one of the Neighborhood Restrictions by judgment or court order shall not affect any of the other Neighborhood Restrictions, which shall remain in full force and effect.

(signatures appear on following pages)

IN WITNESS WHEREOF, Farinas has executed this Amendment, and the Association has caused the execution of this Amendment by its duly authorized officer, to be effective the day and year first above written.

The Summit at Hamburg Mountain Homeowners Association, Inc.

By: Elizabeth G. Armstrong
Elizabeth G. Armstrong, President

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, a Notary Public of said County and State, certify that Elizabeth G. Armstrong, who is the President of The Summit at Hamburg Mountain Homeowners Association, Inc., a North Carolina not-for-profit corporation, personally appeared before me this day and acknowledged execution of the foregoing instrument on behalf of the corporation.

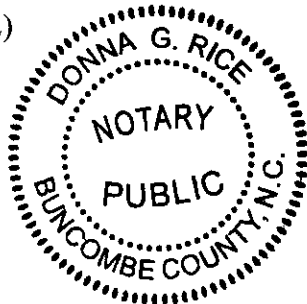
WITNESS my hand and official stamp or seal, this 2nd day of July, 2020.

Donna G. Rice
Notary Public

My Commission Expires:

9/26/2020

(NOTARY SEAL)



Yalier Farinas
Yalier Farinas

STATE OF FLORIDA

COUNTY OF DADE

I, a Notary Public of the aforesaid State and County, certifies that Yalier Farinas personally appeared before me this day and acknowledged the execution of the foregoing instrument.

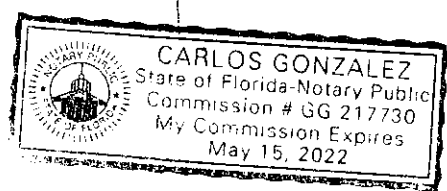
WITNESS my hand and official stamp or seal, this 22 day of JULY, 2020.

[Signature]
Notary Public

My Commission Expires:

MAY 15, 2022

(NOTARY SEAL)



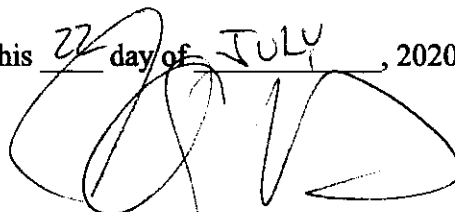
Karina Farinas
Karina Farinas

STATE OF FLORIDA

COUNTY OF DADE

I, a Notary Public of the aforesaid State and County, certifies that Karina Farinas personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 22 day of JULY, 2020.



Notary Public

My Commission Expires:

MAY 15, 2022

(NOTARY SEAL)

