

FIRST AMENDMENT TO DECLARATION OF COVENANTS,
RESTRICTIONS, AND CONDITIONS

COPY
XEROX 1/7/04

THE BROOKS AT CUMBERLAND PARK PHASE I

THE STATE OF TEXAS }
 }
COUNTY OF SMITH }

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, The Declaration of Covenants, Restrictions, and Conditions of The Brooks At Cumberland Park, Phase I, (hereinafter Declaration) was heretofore executed by Broadway South Development, "M" No. 1, Ltd, (hereinafter Declarant), under date of January 29, 2003, recorded in Volume 6885, Page 1 of the Official Public Records of Smith County, Texas; and,

WHEREAS, In accordance with Article XIII, Section 13.2 of said Declaration, until Declarant sells all the lots in the subdivision, the Declarant has the right to unilaterally change or amend the Declaration at any time for any reason or purpose as determined at the sole discretion of the Declarant in order to develop, protect and enhance the property; and,

WHEREAS, Declarant has not sold all of such lots, and

WHEREAS, Declarant now desires to amend the Declaration as set forth herein below in order to increase the available lot space to accommodate the construction of larger sized homes and increase the selection of home floor plans that may be placed within the available lot space;

NOW THEREFORE, In consideration of the benefits to be derived therefrom, the undersigned Declarant does amend the Declaration as follows:

- 1. All Covenants, Restrictions, and Conditions set out in the Declaration will remain in place, except where amended herein below.
- 2. Article V, Section 5.4, "Setbacks", shall be amended as follows:

Delete the entire existing paragraph and add the following paragraph:

"All Permanent Improvements shall be located on each Lot in compliance with the minimum setback lines as shown below. For purposes of this covenant, roof overhang, eaves and open porches shall be considered as a part of the Dwelling.

• Type "A" Lots

- Front - 17' to the front of the main structure and 20' to the front of the garage
- Rear - 7.5'
- Sides - 5' each side

• Type "B" Lots

- Front - 20'
- Rear - 20'
- Sides - 7.5' each

The street "side" setback on either Type "A" or Type "B" corner Lots shall be a minimum of 15'."

EXCEPT as hereinabove specifically amended, all of the other terms and conditions of the Declaration shall remain in full force and effect.

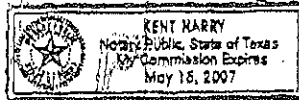
EXECUTED THIS 16th DAY OF December, 2003.

BROADWAY SOUTH DEVELOPMENT, "M" NO. 1, LTD.
BY BROADWAY SOUTH DEVELOPMENT, LC, ITS SOLE
GENERAL PARTNER

By: [Signature]
John R. Garrett, President

The instrument was acknowledged before me on December 16th, 2003, by John R. Garrett, President of Broadway South Development, LC, as sole general partner of Broadway South Development, "M" No. 1, Ltd., a Texas Limited Partnership, and in the capacity therein stated.

[Signature]
Notary Public, State of Texas



AFTER RECORDING, RETURN TO:

John R. Garrett
P. O. Box 1084
Tyler, Tx 75710

Filed for Record in:
SMITH COUNTY, TEXAS
JUDY CARMES, COUNTY CLERK
On Dec 29 2003
At 2:12pm
Receipt #: 294751
Recording: 16.00
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Doc/Type : REC
Deputy - Rebecca Calderon